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Kerala Gazette No. 10 dated 6th March 1984
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1384/83/LBR. *Dated, Trivandrum, 2ndDecember 1983.*

The award of the Labour Court, Ernakulam in respect of the dispute between the President, Alwaye Kunnathunad Co-operative Rubber Marketing Society Ltd. No. E. 221, Perumbavoor and the workman of the above Society Shri. A. K. P. Pillai, House No. 402/XVII, Palace Road, Chalakudy received by Government on 24-11-1983 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Thursday, the 17th day of November 1983

Present:

SHRI N. SUKUMARAN B. SC., B. L.,

Presiding Officer

INDUSTRIAL DISPUTE No. 112 OF 1979

(Old No. I. D. 80 of 1975)

Between

The president Alwaye Kunnathunad Co-operative Rubber Marketing Society Ltd. No. E. 221, perumbavoor

And

The workman of the above Society Shri A. K. P. Pillai, House No. 402/XVII, Palace Road, Chalakudy.

GA. 196/L

AWARD

The issue referred for adjudication by Government as per G. O. Rt. No. 1487/75/LBR datrd 12-12-1975 is "Dismissal of Shri A. K. P. pillai". The reference initially was to the Labour Court, Quilon where it was taken on the file as I. D. 80/75. Consequent on the change in the territorial Jurisdiction a transfer became necessary and that is how the case came up before this court to be refiled in the present number.

2. Shri Purushothaman pillai was the Secretary of the Alwaye Kunnathunad Co-operative Rubber Marketing Society Limited (hereinafter refeared to as the Society). While so disciplinary proceedings were initited against him and it endad in his dismissal. The reference was ordered since conciliation efforts did not yield any useful results.

3. The following facts are admitted. The Management of the Society vested in a Board of Directors. One of the members had to be nominated by the Rubber Board and the other elected by the general body. In May 1973 the Deputy Registrar of Co-operative Societies appointed an Administrative Committee consisting of three persons to manage the affairs of the Society in supersession of the Board for a period of three months with a direction that steps will be initiated for the election of a new Board of Directors. Before the fresh election the Rubber Board Chairman nominated Shri P. K. Rajasekhara Pillai, Deputy Development Officer, Rubber Board Regional Office, Ernakulam to be the nominee of the Director Board of the Society as per his proceedings dated 25th June 1973. Subsequently new members were elected to the Director Board on 19-8-1973. The first sitting of the new Board for electing the office bearers was notified to be held on 24-8-1973. The secretary of the Society issued a communication to the Rubber Board on 21-8-1973 requesting that a new nominee of the Rubber Board to the Director Board of the Society may be named pointing out that Shri P. K. Rajasekharan Pillai cannot be treated as a member of the new Director Board. The notice of the proposed meeting to 24-8-1973 was also given to the Rubber Board. But the Rubber Board did not initiate any action on its basis nor did Shri Rajasekharan pillai patricipate in any of ite subsequent meetings But Shri Rajasekharan pillai visited the office of ths Society on 11-10-1973 and wanted to inspect its records. The Secretary did not permit him to have access to the records for inspection. So Shri Rajasekharan Pillai returned. On 18-10-1973 the Secretary of the Rubber Board issued a communication to the President of the Society intimating the letter that the action of the Secretary of the Society in refusing access to Shri Rajasekharan Pillai to the records on 11-10-1973 amounts to a violation of Sec. 20 (c) of the Rubber Act 1947 and the relevant rules concerning the grant of working capital loans to marking societies. (The Rubber Board had granted such a loan to the Society also). It was also threatened that the special licence for dealership in rubber issued to the Society will be cancelled and steps initiated for prosecution and recovery of the entire loan advanced if satisfactory explanation is not offered for the behaviour of the Society's Secretary towards Shri Rajasekharan Pillai on 11-10-1973. The President of the

Society immediately called for the explanations of Shri Purushothaman Pillai, the Secretary. He explained that Shri Rajasekharan Pillai was not a sitting member of the new Director Board and the matter had already been taken up with the Rubber Board at the direction of the president and the failure to permit Shri Rajasekharan pillai to inspect the records was only because there was bonafide doubt as to whether he was a nominee entitled to function in that capacity. This explanation did not find favour with the President or the Director Board. So disciplinary proceedings were initiated serving a formal charge to which also Shri Purushothaman Pillai submitted a detailed explanation. A domestic enquiry was ordered to enquire into the charges. An Advocate appointed for that purpose conducted the enquiry in which Shri Purushothaman Pillai participated throughout. He cross-examined all the five witnesses examined on the side of the Management at length and offered himself as a witness. He was also examined and cross-examined. The evidence was thus closed and the Enquiry officer as per Ext. M1 report held "I find that Shri A. K. P. Pillai is guilty of misconduct in not allowing Shri P. K. Rajasekharan Pillai to inspect the accounts and records of the Society on 11-10-1973 as requested for." (Shri Purushothaman Pillai is referred in the records as A. K. P. Pillai). Accepting this finding the Society awarded the punishment which is under challenge.

4. The parties have advanced elaborate pleadings consisting of the claim statement and rejoinder of the workman and the written statement of the Society. The stand taken up by the Society is that Shri Rajasekharan Pillai, Deputy Development Officer of the Rubber Board had legal authority to inspect the records of the Society as per Sec. 20 (c) of the Rubber Act and also in his capacity as the Rubber Board's nominee to the Director Board of the Society and Shri Purushothaman Pillai, the Secretary, wilfully prevented him from having access to the records for inspection with a deliberate intention of causing great inconvenience to the Society including the grave consequence of the cancellation of the licence issued and withdrawal of loan granted by the Rubber Board resulting in a probable paralisation of the entire working of the Society and it amounts to a grave misconduct and the same was properly proved in a valid domestic enquiry. According to the Society the punishment awarded has to be sustained. Shri Purushothaman Pillai on the other hand pleads that he was only attempting to safeguard the best interests of the Society by pointing out that Shri Rajasekharan Pillai was not then a valid nominee in a polite manner by explaining that the matter is still under correspondence with the Board and therefore he was helpless in producing the records for his inspection. It is his further case that Shri Rajasekheran Pillai did not demand inspection. Of the records in his capacity as an Officer of the Rubber Board. He has yet another case that even though Shri Rajasekharan Pillai was an Officer of the Rubber Board he had no valid or proper authorisation from the Chairman of the Rubper Board to make the inspection of the records in his capacity as an Officer of that Board. He has a further case that the domestic enquiry was held with a view to victimise him by the Enquiry Officer with a closed and biased mind and the conclusions reached by him are at any rate perverse.

5. The case was taken up for consideration as to whether there was a valid and proper domestic enquiry. Then it was submitted by Shri Purushothaman Pillai that his complaint regarding the form and procedure adopted at the domestic enquiry is not pursued and the only aspect that need be considered is the correctness of the findings arrived at by the Enquiry Officer in Ext. M1. He has also given up the plea that he was an innocent victim at the hands of the Management. The Management also submitted that it had admitted all its evidence at the domestic enquiry and a composite award without a preliminary order regarding the domestic enquiry may straightaway be passed. So I am proceeding to pass a final award without a preliminary order concerning the domestic enquiry.

6. No oral evidence had been admitted before this court. The materials collected in evidence at the domestic enquiry including the documents and depositions of witnesses are produced here. Some other documents have also been produced by the Management as called for by the workman. The workman has also produced a series of documents. There is no dispute regarding the genuineness of the documents produced from either side.

7. The controversy to be resolved is as to whether Shri Purushothaman Pillai is guilty of the misconduct attributed to him. The charge against him as per the document marked as Ext. P3 at the domestic enquiry is as follows:—

"1973 ഒക്ടോബർ 11-ാം തീയതി റബ്ബർ ബോർഡിൽനിന്ന് സൊസൈറ്റിയിലേക്കുള്ള നോമിനി എന്ന നിലയിലും (Ref. No. 12/1/73 Co-op: dt. 25th June 1973) എറണാകുളം റബ്ബർ ബോർഡ് ഡെപ്യൂട്ടി ഡവലപ്പ്മെൻറ് ഓഫീസറുമായ പി. കെ. രാജശേഖരൻനായർ സംഘം റിക്കാർഡുകൾ പരിശോധനയ്ക്ക് വന്നപ്പോൾ റബ്ബർ ബോർഡിന്റെ എല്ലാ നിയമങ്ങളുമറിയാവുന്ന നിങ്ങൾ സൊസൈറ്റിക്ക് വരുന്ന വിനാശകരമായ ഭവിഷ്യത്ത് മന:പൂർവ്വം മനസ്സിലാക്കിക്കൊണ്ടും സാഹസികമായി വരുന്ന ഭവിഷ്യത്തിനെ അവഗണിച്ചും മനഃപൂർവ്വം റിക്കാർഡുകൾ കാണിച്ചില്ല. ഈ വിധത്തിൽ താങ്കൾ സൊസൈറ്റിയേയും ഡയറക്ടർ ബോർഡിനേയും സംബന്ധിക്കുന്ന കുറ്റകരമായ ഒരു പ്രവർത്തി (Miss Conduct) നിങ്ങളുടെ പേരിൽ കാണുന്നതിനാൽ ആയതിന് നിങ്ങളുടെ പേരിൽ ശിക്ഷണ നടപടി നടത്താതിരിക്കുന്നതിനുള്ള സമാധാനം 5-11-1973 തിങ്കളാഴ്ച 10 മണിക്കുമുൻപ് എന്നെ രേഖാമൂലം അറിയിക്കുവാൻ താങ്കളെ ഇതിനാൽ അറിയിച്ചുകൊള്ളുന്നു."

I have extracted the charge in its original form since there is a dispute as to what exactly was the actual misconduct attributed to him. According to the Society Shri Rajasekharan Pillai had authority in dual capacities to inspect the records, firstly as a nominee to the Director Board from the Rubber Board and secondly in his capacity as an Officer of the Rubber Board. The above charge is interpreted by the learned counsel appearing on behalf of the Society to include failure to produce records for inspection before Shri Rajasekharan Pillai in both these capacities. The argument is that even if it is assumed that Shri Rajasekharan Pillai was not a valid nominee the misconduct is still present since Shri Rajasekharan Pillai could legitimately insist on inspection of the records in his capacity as an Officer of the Rubber Board. This claim of the Management is seriously disputed by

Shri Purushothaman Pillai. His case is that the allegation concerns only the refusal to produce the records before a competent nominee and the further description regarding that nominee is only concerning his identity as an Officer of the Board and he cannot therefore be expected to have been told that, that is another limb of the charge.

8. The charge is not couched in clear terms and it certainly admits of ambiguity as to whether Shri Rajasekharan Pillai had demanded inspection of the records in his independent capacity as an Officer of the Rubber Board. The charge was framed on the basis of the communication received from the Secretary of the Rubber Board which was marked as Ext. P1 at the enquiry. Paras 3 and 4 of that communication which are relevant are extracted here for ready reference.

> "The Deputy Development Officer of the Rubber Board's Regional Office, Ernakulam, while visiting the Alwaye Kunnathunad Co-operative Rubber Marketing Society for the purpose of inspecting its accounts and records on 11th October 1973 has reported to the undersigned that the Secretary of the Society has refused to produce the necessary records pertaining to the transactions of the Society before him for his examination. As you know, Shri P. K. Rajasekhara Pillai, Dy. Development Officer, Regional Office, Ernakulam, has been nominated as a member of the Board of Directors of the Society by the Chairman, Rubber Board, vide proceedings No. 12/1/73/Co-op dated 25-6-1973.
>
> Knowing Shri P. K. Rajasekhara Pillai, to be the nominee of the Rubber Board in the Board of Directors of the Society and an Officer of the Rubber Board, the refusal of the Secretary of the Society to show the accounts and records before him, amounts to violation of Section 20 (c) of the Rubber Act 1947 and Sub-rule (ix) of Rule 13 of the Rules for the grant of Working Capital Loans to Primary Marketing Co-operative Societies. The conduct of the Society in refusing to produce the records before the Board's Officer is untenable and unwarranted."

It needs hardly be mentioned that the Rubber Board had in clear and unambiguous terms staked the claim of Shri Rajasekaran Pillai to have authority for inspection in both the capacities. But unfortunately the situation is entirely different in the wording employed while framing the charge. The charge as extracted above admits of a reasonable doubt as to whether the dual capacities of Shri Rajasekharan Pillai are pressed into service to make out a misconduct one way or the other or both simultaneously. However it is seen that Shri Purushothaman Pillai had attempted to defend himself in the explanations submitted by him and at the enquiry as against both the limbs of the relied on by the Management while pleading that the charge is not clear regarding one of them. To me it appears that the ambiguity in the charge is not very much important since Shri Purushothaman Pillai even at the stage of domestic enquiry was aware from

the trend of the evidence and the descriptions contained in Ext. P1 at the enquiry (copy of which was already communicated to him) that he was asked to answer both the limbs of the charge. So I shall proceed to consider the misconduct attributed to Shri Purushothaman Pillai as consisting of both those limbs.

9. I shall first consider the Management's claim that Shri Rajasekharan Pillai had valid authority to demand inspection of the records of the Society in his capacity as the nominee of Rubber Board to the Director Board of the Society. As per Sec. 17 of the bye-laws of the Society the Director Board shall consist of 9 members of whom one shall be a nominee of the Rubber Board. Under Sec. 19 the Rubber Board can terminate the nomination of its representative. The previous nominee of the Rubber Board Shri M. J. Henry, the then Deputy Development Officer, Ernakulam, was transferred to Trivandrum and so his substitute Shri Rajasekharan Pillai was nominated by the Board on 25-6-1973. This nomination was intimated to the Society. But there was no existing Director Board at that time since its term had expired earlier and an Administrative Committee was put in charge as per the orders of the Deputy Registrar of Co-operative Societies, Ernakulam dated 5-6-1973. Fresh elections were conducted on 19-8-1973. This fact was intimated by the Society to the Rubber Board with a request that a fresh nomination of the Rubber Board's representative may be made. It was also mentioned therein that Shri Rajasekharan Pillai cannot be treated as an existing nominee since previous Board had ceased to exist and a new Board has been formed by election. (There are records available to this effect and the facts are also admitted).

10. The Rubber Board did not nominate anyone afresh in reply to the communication from the Society. Shri Rajasekharan Pillai did not participate in any of the several meetings held by the new Director Board. But he made his appearance for inspection on 11-10-1973.

11. It is the admitted case that the workman did not produce the records for inspection before Shri Rajasekharan Pillai as was demanded by the latter. That it happens so is spoken to by witness Nos. 2 to 5, the other employees of the Society examined at the enquiry. The only question is as to whether the refusal of Shri Purushothaman Pillai can be treated as a misconduct. It must be held that Shri Rajasekharan Pillai had no authority as a nominee to the Rubber Board on that particular day to inspect the records. The admitted facts indicate that the nomination of Shri Rajasekharan Pillai occurred at a time when there was no subsisting Board of Directors of the Society. A nomination can legally be made only to an existing body. That means that there was no legal nomination when it was made. This position had been explained to the Rubber Board by the Society and it was also requested that a fresh nomination may be made to the Board that subsequently came into existence by the fresh election. It is in evidence that this situation was explained by Shri Purushothaman Pillai to Shri Rajasekhara Pillai when he wanted to inspect the documents. All the witnesses who speak about the relevant facts (witness Nos. 2 to 5 at the

enquiry) have stated in clear and unambiguous terms that the conversation between the two was very cordial and polite and they even enjoyed tea that was offered and then Shri Rajasekhara Pillai left the scene without any sort of unpleasant developments. It appears that Shri Rajasekhara Pillai was also convinced that the stand taken up by Shri Purushothaman Pillai was reasonable. I have no hesitation to say that in the circumstances Shri Purushothaman Pillai did not have any ulterior motives and he only wanted to safeguard the position that was taken up by the Society regarding this nomination. To treat this as a misconduct for punitive action is most uncharitable. It can therefore safely be concluded that Shri Purushothaman Pillai did not commit any misconduct in refusing to produce the records for inspection before Shri Rajasekhara Pillali in his capacity as a nominee to the Director Board of the Society.

12. Now remains the other limb of the charge. Shri Rajasekhara Pillai admittedly was the Deputy Development Officer of the Rubber Board at Ernakulam at the relevant time. The Management's case is that Shri Rajasekhara Pillai had alternatively demanded that he has a right to inspect the records in his capacity as an offical of the Rubber Board. Section 20 of the Rubber Act, 1947 is to the following effect:—

> "20. Submission of returns and maintenance of accounts.—subject to such exceptions as may be prescribed, every owner, every manufacturer, and every holder of a special licence issued under section 14 not being an owner or a manufacturer, shall—
>
> (a) submit to the Board such returns at such times, in such form, and containing such particulars, as may be prescribed;
>
> (b) maintain true and correct accounts and other records pertaining to his estate or business, as the case may be, in such form as may be prescribed;
>
> (c) permit any person authorized in this behalf by the Central Government or by the Board or any member of the Board authorized by the Chairman in writting or any officer of the Board to inspect the accounts and records referred to in clause (b)."

Sub-sec. (c) of the above Section is sought to be attracted to give authority to Shri Rajasekhara Pillai to inspect the records of the Society as an Officer of the Rubber Board. Shri Purushothaman Pillai has an argument (Shri Purushothaman Pillai is now a practising lawyerand he was arguing his case himself) that a written authority of the Chairman is required even in cases of inspecting officers if sub-sec. (c) is properly interpreted. But the wording employed therein does not, permit such an interpretation. The Language used is clear to indicate that an Officer of the Rubber Board can inspect the accounts even without any written authority. The written authority is insisted only in the case of other persons enumerated therein. So this argument of Shri Purushothaman Pillai is not acceptable.

13. Shri Purushothaman Pillai has a serious case that Shri Rajasekhara Pillai did not alternatively demand the right to inspect the records in his capacity as an Officer of the Rubber Board. Witness Nos. 2 to 5 at the enquiry have given evidence that there was discussion on this aspect also between the two. But they have admitted that there was a prolonged conversation in English and Malayalam and they did not follow it in detail. Shri Purushothaman Pillai as the only defence witness at the enquiry had given evidence that there was no such discussion. In the circumstances of this case Shri Rajasekhara Pillai was the most competent witness to speak as to what had happened actually. Strangely enough he had not been examined.. In these state of affairs it is not safe to act on the doubtful versions given by the witnesses examined in preference to that of Shri Purushothaman Pillai who had asserted that this matter was not touched at all. In these state of affairs it has to be said that the best evidence has been suppressed by the Management and the only course open to me is to accept the definite case pleaded and sworn to by Shri Purushothaman Pillai that there was no such discussion at all. When that is the position it cannot be said that Shri Purushothaman Pillai committed a misconduct in refusing to oblige Shri Rajasekhara Pillai 's demand to have access to the records in his capacity as an Officer of the Rubber Board. So it follows and I find that Shri Purushothaman Pillai was not guilty of any misconduct. The finding to the contrary rendered by the Enquiry Officer has to be rejected as perverse.

14. Now the question remains as to what reliefs Shri Purushothaman Pillai is entitled to. Shri Purushothaman Pillai had claimed reinstatement with all benefits. But it is admitted that Shri Purushothaman Pillai was a law graduate even when disciplinary proceedings were initiated against him. It is further admitted that he had enrolled himself as an Advocate on 13-7-1974 and that he is thereafter practising as a lawyer continuously. So arrears in back wages need not be paid. He is not pressing his claim for reinstatement since he is intending to continue the practice at the Bar. But the claims adequate compensation. This is a case where the Management had initiated action against Shri Purushothaman Pillai on the basis of a communication received from the Rubber Board wherein it was threatened with serious consequences for the actions of the Secretary. As a matter of fact there was no reasonable basis for the Rubber Board to jumple into the conclusion that Shri Purushothaman Pillai had committed grave offences. He was only defending the legitimate cause of the Society. But the Society also acted on the apprehension that its very existence will be jeopardised if the Secretary is not thrown out. No bad motive would be attributed to the Society since it bona fide believed that there was no alternative. In these state of affairs a moderate amount as compensation will meet the ends of justice. Shri Purushothaman Pillai had put in only about two years of service with the Society when disciplinary proceedings were initiated. He was under suspension only for a short period at the end of which he was dismissed. Taking into consideration the various aspects of

the case I fix Rs. 5,000 as compensation payable to Shri Purushothaman Pillai. The Society will pay the same.

15. In the result an award is passed setting aside the dismissal of Shri A. K. Purushothaman Pillai (A. K. P. Pillai) and directing the Management Society to pay Rs. 5,000 (Rupees five thousand) as compensation to Shri Purushothaman Pillai. Shri Purushothaman Pillai is not entitled to any other reliefs.

Ernakulam,
17-11-1983.

N. SUKUMARAN,
Presiding Officer.

Appendix

Exhibit marked on the Management's side:—
Ext. M1. Enquiry report dated 30-4-1974.

Kerala Gazette No. 10 dated 6th March 1984.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 70/84/LBR. *Dated, Trivandrum, 18th January 1984.*

The award of the Labour Court, Ernakulam in respect of the dispute between the Managing Director, Mathrubhoomi Printing and Publishing Company Limited, Calicut and their workmen represented by the Secretary, the Mathrubhoomi Employees Association, Cochin and Calicut, Cochin-17 received by Government on 5-1-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Friday, the 30th day of December 1983

Present :

SHRI N. SUKUMARAN, B. SC. B. L.,
Presiding Officer

INDUSTRIAL DISPUTE No. 4 of 1980

Between

The Managing Director, Mathrubhoomi Printing and Publishing Company Limited, Calicut.

And

The workmen of the above concern represented by the Secretary, The Mathrubhoomi Employees Association, Cochin and Calicut, Cochin-17.

Representations :—

M/s Menon & Menon, Advocates, Cochin-16.	For *Management*.
M/s Sukumaran & Usha, Advocates, Cochin-11.	For *Union*.

G.A. 210/L

AWARD

The issues referred for adjudication by Government as per G. O. (Rt.) No. 157/80/LBR dated 30-1-1980 are the following :—

"1. Demotion to the post of Mono Operator and the barring of promotion for five years of Sri V. M. Kochaniyan, Mathrubhoomi Printing and Publishing Company, Cochin Unit.

2. Withholding of one increment of Sri K. S. Antony, Foreman, Mathrubhoomi Printing and Publishing Company Limited, Cochin Unit.

3. Withholding of one increment of Sri K. K. Lalan, Attender, Mathrubhoomi Printing and Publishing Company Limited, Cochin Unit and the debarring of his promotion for five years.

4. Withholding of one increment of Sri T. G. Surendran, Compositor, Mathrubhoomi Printing and Publishing Company Limited, Cochin Unit.

5. Withholding of one increment of Sri N. Vijayan, Compositor, Mathrubhoomi Printing and Publishing Company Limited, Cochin Unit."

2. The Union has abandoned the claims which are subject matter of Issue Nos. 2 to 5. So there is no subsisting industrial dispute concerning those issues. So we are left with issue No. 1 alone.

3. Demotion of Shri Kochaniyan was ordered as a punishment for the misconduct of absence without leave. This punishment was awarded after a domestic enquiry the correctness of which was challenged by the Union and therefore the same was disposed of by me as a preliminary issue as per my order dated 28-6-1982. The Management disputed the correctness of that order which was against it before the High Court in O. P. 5368/82. That Original Petition was dismissed and the Management thereafter adduced fresh evidence.

4. Shri Kochaniyan was a Shift-in-charge of the Mono Key Section of the Management Company in its Cochin Unit. He was absenting himsell for considerable length of time from 1973 onwards on medical grounds. His leave upto the end of November 1975 was regularised. But his applications for leave supported by medical certificates from a private medical practitioner with effect from 20-12-1975 to 17-2-1976 were rejected by the Management as unacceptable and disciplinary proceedings were initiated for the absence treating it as without leave or sanction. In the original written statement filed by the Management it was stated that the charges against Shri Kochaniyan are contained in the memo dated 24-2-1976. That memo is Ext. M1 (a) in the case. This was treated by me as the memo of charges raised against Shri Kochaniyan in my preliminary order and I had an occasion to mention therein that the relevant order of the Standing Orders applicable to the concern was not recited in the charge. When the matter wa taken up before the High Court it was pointed out that there is a subsequen

formal charge (Ext. M1-d) dated 16-3-1976 indicating the relevant provision of the Standing Order also and therefore the Management should have relied on the same. The High Court in the judgment disposing of the Original Petition has stated that this Court will have to act on the basis of Ext. M1 (d) ignoring the earlier observation in the preliminary order that the Management is not relying on the provisions of the Standing Orders. When the case was taken up after the dismissal of the Original Petition filed before the High Court the Management had filed an application to correct the date of the charge in the original written statement as 16-3-1976 instead of 24-2-1976. That was allowed. Thus the charge against Shri Kochaniyan in Ext. M1 (d) memo of charges dated 16-3-1976 is the following:—

That he committed a misconduct as per Standing Order 18 (f) for habitually absenting without leave for the following periods:—

In 1970 calendar year	..	9	days
In 1971 ,,	..	26	,,
In 1972 ,,	..	1½	,,
In 1973 ,,	..	51	,,
In 1974 ,,	..	195½	,,
In 1975 ,,	..	180½	,,
In 1976 (1-1-1976 to 17-2-1976)	..	48	,,

Ext. M3 is the Standing Orders applicable to the Establishment. Clause (f) of Standing Order 18 reads "Habitual absence without leave or absence without leave for more than ten consecutive days." The case of the Management is that Shri Kochaniyan is guilty under both the limbs of the above Standing Order. According to it Shri Kochaniyan was not really ill on the days on which he had been absent and he was actively engaged himself in the production of a film ignoring his responsible duties as a Shift-in-charge causing great inconvenience to it and that amounts to a grave misconduct especially when the production and distribution of daily papers as per schedule were adversely affected due to the irregular attendance of Shri Kochaniyan. On the other hand the contention of the Union is that there was no absence without proper applications for leave and that Shri Kochaniyan had applied for leave on genuine grounds supported by medical certificates in time for all his absence and therefore he cannot be found guilty of any misconduct It is the further case of the Union that the Management had regularised the leave upto November 1975 and therefore any absence for the prior period cannot be treated as the basis for an allegation of misconduct. The Union prays that the punishment may be quashed and consequential reliefs granted.

5. The question for consideration is as to whether Shri Kochaniyan is guilty of the misconduct attributed to him. Evidence had been admitted before and after the preliminary order. The Enquiry Officer was examined in connection with the preliminary issue as MW1 and the documents that were marked at that stage are Exts. M1 to M5 and W1. Thereafter the Management examined its Administrative Officer as MW2 and proved Exts. M6 to M20. The workman examined himself as WW1 and produced

and proved Exts. W2 to W5. One of his co-workers had been examined as WW2. That is all the evidence available.

6. It is admitted by the workman as WW1 that he had been absent from duty on the days mentioned in the charge. The details of the dates concerning the absence are given by the Management in Ext. M4 statement; the correctness of which is also admitted by the workman. Exts. M18 series and M19 series are correspondence between the workman and the Management concerning his absence and leave from 1973 to1975. The absence in the years 1973 and 1974 had been regularised by the Management as leave on loss of pay as could be seen from the correspondence. We have also Ext. M5 order of MW2 dated 12-8-1975 in which absence upto 10-8-1975 has been regularised as leave on loss of pay. It was also mentioned therein that Shri Kochaniyan is habitually absenting without leave. He was also warned therein that action will be initiated against him if he repeats such absence. Thus the Management had condoned the absence till the date mentioned in Ext. M5 and treated it as leave on loss of pay. It is further admitted before me that there is no unauthorised absence upto 20-12-1975. That being the position it is not fair for the Management to treat the absence prior to 20-12-1975 as the basis for a substantive charge for disciplinary action. It may be that such absence can be considered for assessing the previous conduct in awarding the punishment, if any, necessary. But for the present we need only consider as to whether Shri Kochaniyan had absented himself without lawful authority from 20-12-1975 to 17-2-1976.

7. Admittedly Shri Kochaniyan had applied for medical leave for the period 20-12-1975 to 17-2-1976. In the first instance he applied for two weeks medical leave from 20-12-1975 as per Ext. M8 application dated 21-12-1975. It was supported by Ext. M8 (a) medical certificate from a private Homoeopathic physician. On the expiry of the period of two weeks he filed Ext. M8 (c) for an extension of the leave for three weeks producing Ext. M8 (d) certificate from the same physician. A further extension was sought under Ext. M8 (e) application supported by Ext. M8 (f) medical certificate from the same Doctor. The period of extension sought for was two weeks. Finally a further extension by one week from 7-2-1976 was sought for in Ext. M8 (g) for which also a medical certificate from the same doctor was submitted. But the Management did not grant those requests. It had earlier issued Ext. M17 letter to Shri Kochaniyan on 13-11-1975 reminding him that he is very irregular in his attendance even though he is holding a responsible job as the Shift-in-charge and therefore his leave applications will not be favourably considered unless they are supported by suitable certificates from the E.S.I. authorities. Shri Kochaniyan admittedly is an employee covered by the E.S.I. Scheme. The Management on receiving Ext. M8 leave application issued Ext. M9 reply on 23-12-1975 to Shri Kochaniyan reminding him that he was already informed in Ext. M17 that his leave applications will not be considered if not supported by certificate from the E.S.I. authority and informing him that the application submitted without complying that formality will not be taken up for consideration. He was again reminded of the same position in Ext. M10 letter dated

29-12-1975. He was informed further that he should either produce E.S.I. certificate or join duty failing which arrangements will be made to appoint a substitute for him. On the same day Ext. M11 was also issued stating that his leave application will not be considered on the basis of certificates of private medical practitioners. Shri Kochaniyan did not comply with the above directions but he promptly applied for extension of the leave under Ext. M8 (c) to which the Management issued Ext. M12 reply on 8-1-1976 stating that the leave applied upto 28-1-1976 stands rejected. He was also informed therein that the question of initiating disciplinary proceedings against him is under consideration. Even then he continued to apply for extension under the applications already mentioned and the Management on 14-1-1976 and 3-2-1976 issued Exts. M13 and M14 replies rejecting the subsequent leave applications and also asking him to show cause why he should not be removed from his post. Ext. M15 letter was issued by the Management on 13-2-1976 repeating that stand. It appears that Shri Kochaniyan had submitted a letter on 20-2-1976 requesting that the Management may reconsider its decision. The Management had rejected that request as per its letter dated 21-2-1976 copy of which is Ext. M16. This was followed by Ext. M1 (a) show cause notice to which Shri Kochaniyan submitted Ext. M1 (b) explanation. The explanation did not find favour with the Management and therefore Ext. M1 (d) charge was framed and a domestic enquiry ordered. The punishment followed on the basis of the findings of the Enquiry Officer.

8. The main case of the Management is that Shri Kochaniyan was not really ill and he was absenting himself for his activity as a film-producer and he was submitting the leave applications stating illness as a ground without any basis and that is why E.S.I. certificate was insisted. It is also the case of the Management that E.S.I. certificate is insisted in the case of workmen covered by the E. S. I. Scheme. On the other hand the contention of the Union is that Shri Kochaniyan was actually ill and there is no justification for the insistence of the Management that E. S. I. certificate has to be produced for medical leave. The Employees' State Insurance Act, 1948, the Rules framed thereunder and the Employees State Insurance (General) Regulations, 1950 are meant for the benefit of the workmen to have free treatment and sickness benefits. There is nothing in the Act, Rules or Regulations from which it could be said that it is obligatory on the part of the covered employee to invariably produce medical certificates or recommendations from the E. S. I. authorities in support of leave on medical grounds. The option is with the covered employee to avail of the benefits under the E.S.I. Scheme. He has every right to have treatment elsewhere by a doctor in an institution in which he has confidence. If actually an employee is ill and opts to have treatment at his expense in a private Nursing Home then he cannot be treated as an absentee merely for the reason that he was not in a position to produce E.S.I. certificate. So the stand of the Management that invariably E.S.I. certificate has to be produced in support of medical leave is not justified. But the question still remains as to whether Shri

Kochaniyan was actually ill from 20-12-1975 to 17-2-1976 for which medical leave was applied for. Admittedly he had applied for medical leave on loss of pay. Medical leave on loss of pay is not covered by Ext. M2 leave rules of the Management Company. Shri Kochaniyan is a factory worker and Rule 32 of Ext. M2 is what is applicable to him in the case of medical leave. That rule provides for one day of medical leave for every month worked provided he has not absented himself from duty without previous sanction. Admittedly he had no medical leave to his credit as per that rule. So the leave applied for was not one covered by Ext. M2. There is no provision in Ext. M2 for medical leave on loss of pay over and above that provided in Rule 32.

9. Now the controversy as to whether Shri Kochaniyan was actually ill from 20-12-1975 to 17-2-1976 has to be resolved. Shri Kochaniyan has given evidence that he was actually ill. Reliance is also placed on Ext. M8 series medical certificates. But the Management relies on the evidence of MW2 and certain other circumstances revealed in evidence to argue for the position that Shri Kochaniyan was actively engaged in the production of his film during that period. Shri Kochaniyan has admitted in his evidence that he was the producer of the film "ഉദയം കിഴക്കുതന്നെ" released in 1978. WW2 also had admitted that Shri Kochaniyan was away in connection with the production of film from 1973 to 1977. Shri Kochaniyan in his evidence as WW1 had attempted to show that he had given a power of attorney to someone else to manage the affairs of the film and his presence in that connection was unnecessary. He even attempted to show that he had nothing to do with the film once he had given the power of attorney. But he had admitted that he had himself received the subsidy that was granted by the State Government for the production. Admittedly he was a producer of the film, the production of which was in progress from 1973 to 1976. Ext. M20 is said to be a copy of a letter sent by the Management to Shri Kochaniyan by registered post. It was addressed to a hotel in Madras and Shri Kochaniyan is seen to have accepted the same as per Ext. M20(a) postal acknowledgement. That was in July 1975. The contention of the Management is that he was in Madras in connection with the film production. WW2 also admits that Shri Kochaniyan had been in Madras several times for film production. In these state of affairs Shri Kochaniyan had a duty to adduce some independent evidence to show that he was actually ill during the relevant period with which we are concerned. He could atleast have examined the Doctor who had issued Ext. M8 series medical certificates. So his case that he was actually ill and therefore unable to attend duty cannot be accepted. We have to remember that he was applying for leave which was not otherwise eligible to him. He had a duty to convince the Management that he was really ill and unable to attend the office. He was told repeatedly by timely communications that his leave application is not considered since the Management wants a second opinion regarding his illness. It was possible for him at that point of time to convince the Management by second opinion that he was really ill. He did not do that also. It is seen that the Management had warned him even on prior occasions that his leave

applications cannot any further be considered without satisfactory proof of his illness. In these state of affairs the action of the Management cannot be treated as unreasonable. It had given all opportunities to the workman to show that he was ill. He had a last chance before this court to prove his illness. He could not avail any of these opportunities and so it cannot be said that his absence from 20-12-1975 to 17-2-1976 was due to a genuine case of illness. The Management was therefore perfectly right in rejecting the applications and treating him as an absentee. When that is the position he had absented himself continuously for more than ten days without leave and that way Standing Order 18 (f) is attracted. He is guilty of the misconduct of absence without leave for more than ten days continuously. The other allegation that he was habitually absenting himself from 1973 onwards cannot be accepted as a misconduct since his absence on those days has been regularised by granting leave.

10. Now remains the question of punishment. This is not a case to which Section 11 of the Industrial Disputes Act applies. The question is as to whether the punishment is disproportionate to the gravity of the offence proved. The previous history shows that Shri Kochaniyan was absenting for considerable length of time in 1973, 1974 and 1975. The absence on those occasions were regularised as leave after prolonged correspondence. Even Ext. M5 where the absence till 8-10-1975 was regularised by grant of leave on loss of pay he was warned that similar absence in future will be viewed seriously. It was in this background that the Management had demoted Shri Kochaniyan from the post of Shift-in-charge to that of Mono Operator.

11. The evidence is that one of the Mono Operators is promoted and posted as the Shift-in-charge. Shri Kochaniyan was promoted as the Shift-in-charge as per Ext. M6 in December 1969. That order shows that he has also to act as Mono Key Operator in one Board just as any other Mono Key Operator while being the Shift-in-charge. Ext. M7 is the report regarding his probation wherein it is said that he was efficient and the conduct and character are satisfactory. But even there it was mentioned that his attendance is poor. That is the position in 1970. It is the admitted case that the difference in pay between an ordinary Mono Key Operator and the Shift-in-charge is only Rs. 5. But the pay that was being drawn by Shri Kochaniyan as the Shift-in-charge was safeguarded inspite of demotion. In the circumstances of this case demotion for five years cannot therefore be treated as shockingly disproportionate to the gravity of the misconduct proved, especially in the background in which he was behaving for quite some time. But we are now in a situation where the demotion is almost permanent. The evidence is that promotions above the place of Shift-in-charge are by selection. Shri Kochaniyan or others who are occupying the position as Shift-in-charge now cannot normally expect to get further promotions as a matter of course. The five year bar has now elapsed and the stand of the Management is that there is no scope for giving him a promotion now since the vacancies are filled up. It is also the case of the Management that promotion cannot be claimed automatically after five

years since he can be considered for promotion only after five years. It appears to me that Shri Kochaniyan is placed in a situation where he has been permanently depromoted. Such a punishment is really harsh. In the circumstances of this case demotion for a period of five years would have been sufficient and the effect of permanent bar cannot be justified. The Management has yet another case that a demotion for another employee will occur in case Shri Kochaniyan is to be provided as Shift-in-charge and that will create other problems. But there is no scope for any serious problems as the juniormost Shift-in-charge who got the advantage for the past seven years due to the demotion of Shri Kochaniyan may not have any legitimate claims to continue in that post to give room for the person whose demotion provided the chance of promotion to him. He would not have been promoted had Shri Kochaniyan continued in the senior post. The fact that the junior had been holding the senior post for some time need not necessarily mean that he can hold the same for all times to come. Shri Kochaniyan therefore is entitled to promotion as Shift-in-charge in the Mono Key Board Section on the expiry of the period of five years from the date on which the demotion came into effect on 21-5-1976 as per Ext. M1(e) order. That means that he was entitled to an automatic promotion as Shift-in-charge with effect from 21-5-1981. The Management will give effect to the actual promotion on the date on which this award becomes enforceable and pay him monetary benefits for the promotion post from 21-5-1981 onwards. An award is passed accordingly.

Ernakulam,
30-12-1983.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witnesses examined on the Union's side :

WW1. Shri Kochaniyan.
WW2. ,, Sankaranarayanan.

Witnesses examined on the management's side :

MW1. Shri M. V. Gopalakrishnan.
MW2. ,, Damodharan.

Exhibits marked on the Union's side :

Ext. W1. Copy of a communication dated 26-3-1976 from Shri Kochaniyan to the Management.
,, W2. A letter dated 6-9-1972 from the Management to Shri K. C. Eapen, President, Mathrubhoomi Staff Congress.
,, W3. Copy of a communication dated 15-1-1977 from Shri Kochaniyan to the Management.
,, W4. Leave Rules for the non-journalist employees of the Management.
,, W5. Leave book of Shri Kochaniyan.

Exhibits marked on the Management's side:

Ext. M1. The file containing the domestic enquiry papers.
,, M1 (a). Copy of a memo dated 24-2-1976 issued to Shri Kochaniyan.
,, M1 (b). Reply of Shri Kochaniyan to Ext. M1 (a)
,, M1 (c). Copy of a memo dated 16-3-1976 issued to Shri Kochanian.
,, M1 (d). Memo of charge under Standing Order 16 (f) issued to Shri Kochaniyan along with Ext. M1 (c).
,, M1 (e). Decision of the Management dated 18-5-1976 on the findings of the Enquiry Officer.
,, M2. Leave rules for the non-journalist employees of the Management.
,, M3. Standing Orders of the Mathrubhoomi Press, Ernakulam.
,, M4. Statement of attendance of Shri Kochaniyan for the period 1970 to 1976 submitted before the Enquiry Officer.
,, M5. Copy of a letter dated 12-8-1975 issued by the Administrative Officer to Shri Kochaniyan.
,, M6. Office order No. 1412 dated 9-12-1969, promoting Shri Kochaniyan as Shift-in-charge.
,, M7. Report about the probationer Shri Kochaniyan dated 3-9-1970.
,, M8. Application for leave of Shri Kochaniyan dated 12-12-1975.
,, M8 (a). A medical certificate dated 21-12-1975.
,, M8 (b). do. 7-2-1976.
,, M8 (c). Leave application of Shri Kochaniyan dated 3-1-1976.
,, M8 (d). A medical certificate dated 3-1-1976.
,, M8 (e). Leave application of Shri Kochaniyan dated 24-1-1976.
,, M8 (f). A medical certificate dated 24-1-1976.
,, M8 (g). Leave application of Shri Kochaniyan dated 7-2-1976.
,, M9. Copy of a memo dated 23-12-1975 issued to Shri Kochaniyan.
,, M10. Copy of a memo dated 29-12-1975 issued to Shri Kochaniyan.
,, M11. Copy of a communication dated 29-12-1975 from the Management to Shri Kochaniyan.
,, M12. Copy of a communication dated 8-1-1976 from the Management to Shri Kochaniyan.
,, M13. Copy of a memo dated 14-1-1976 issued to Shri Kochaniyan.
,, M14. Copy of a communication dated 3-2-1976 from the Management to Shri Kochaniyan.
,, M15. Copy of a communication dated 13-2-1976 from the Management to Shri Kochaniyan.
,, M16. Copy of a communication dated 21-2-1976 from the Management to Shri Kochaniyan.

Ext. M17. Copy of a communication dated 13-11-1975 from the Management to Shri Kochaniyan.
,, M18. A letter dated 1-12-1973 from the Cochin Office of the Management to the Calicut Office.
,, M18(a). A medical certificate issued to Shri Kochaniyan on 30-9-1975.
,, M18(b). Leave application of Shri Kochaniyan dated 15-9-1995.
,, M18(c). A medical certificate dated 15-9-1975.
,, M18(d). Leave application of Shri Kochaniyan dated 30-9-1975.
,, M18(e). A medical certificate dated 8-9-1975.
,, M18(f). Leave application of Shri Kochaniyan dated 9-9-1975.
,, M18(g). A medical certificate dated 31-7-1975.
,, M18(h). Leave application of Shri Kochaniyan dated 2-8-1975.
,, M18(i). Copy of a memo dated 29-7-1975 issued to Shri Kochaniyan.
,, M18(j). A letter dated 8-7-1975 from the Cochin Offic of the Management to the Calicut Office.
,, M18(k). Copy of a memo dated 26-6-1975 issued to Shri Kochaniyan.
,, M18(l). A medical certificate dated 25-6-1975.
,, M18(m). Leave application of Shri Kochaniyan dated 26-6-1975.
,, M18(n). A letter dated 25-6-1975 from the Cochin Office of the Management to the Calicut Office.
,, M18(o). Copy of a memo dated 7-2-1974 issued to Shri Kochaniyan.
,, M18(p). Copy of a communication dated 1-12-1973 from the Management to Shri Kochaniyan.
,, M18(q). Leave application of Shri Kochaniyan dated 31-11-1973.
,, M18(r). Copy of a memo dated 27-11-1973 issued to Shri Kochaniyan.
,, M18(s). A letter dated 27-11-1973 from the Cochin Office of the Management to the Calicut Office.
,, M18(t). Leave application of Shri Kochaniyan dated 27-11-1973.
,, M18(u). A medical certificate dated 27-11-1973.
,, M18(v). Do. 24-11-1973.
,, M18(w). Leave application of Shri Kochaniyan dated 24-11-1973.
,, M18(x). Copy of a memo dated 23-11-1973 issued to Shri Kochaniyan.
,, M19. A file containing the correspondence between Shri Kochaniyan regarding leave.
,, 19 (a). Copy of a communication dated 15-7-1975 from the Management to Shri Kochaniyan. (in Ext. M19)
,, 20. Copy of a letter dated 7-7-1975 from the Management to Shri Kochaniyan.
,, 20 (a). Postal acknowledgement signed by Shri Kochaniyan.

Kerala Gazette No. 10 dated 6th March 1984.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. Rt. No. 1374/83/LBR. *Dated, Trivandrum, 30th November 1983.*

The award of the Labour Court, Ernakulam in respect of the dispute between Shri K. I. Philip, Manager, Fortland Plantations (Kottaparambil, Estate), Moongalar P. O., Vandiperiyar and the workmen of the above estate represented by the General Secretary, Idukki District Estate Workers Union, Kumily, Peermade Taluk received by Government on 24-11-1983 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam
(Saturday, the 19th day of November, 1983)

Present:

SHRI N. SUKUMARAN, B. SC., B. L.,
Presiding Officer

INDUSTRIAL DISPUTE No. 64 OF 1981

Between

Shri K. I. Philip, Manager, Fortland Plantations (Kottaparambil Estate), Moongalar P. O., Vandiperiyar

And

The workmen of the above estate represented by the General Secretary, Idukki District Estate Workers Union, Kumily, Peermade Taluk.

Representations:

M/s Joseph & Paulose, Lawyers, Kottayam-2. — For *Management*

Sri Zachariah Koshy, Advocate, Kottayam. — For *Union*

GA. 185/I.

AWARD

The issue referred for adjudication by Government as per G.O. (Rt)No. 814/81/LBR dated 2-7-1981 is the following:—

"Dismissal of five workers, viz,
(1) M.Kunjumon, (2) K.Kunjumon, (3) Thankachan,
(4) S.Yesudas, (5) Baby."

2. In the charter of demands, copy of which is appended to the reference, the Union while requesting reinstatement of the dismissed workmen have stated that the dismissals were on false charges unsupported by any evidence. In answer the Management in its written statement filed before this court contends as follows:—

The workmen committed grave acts of misconducts on 30-12-1980 and they were served with charges raising the following allegations:—

(i) They who were instructed to attend to forking work in the cardamom field on 30-12-1980 disobeyed the instructions to work as such and instead trespassed into the coffee picking field, intimidated the workers engaged there, prevented them from attending their duties and drove them away.

(ii) On the same day at about 10 a.m. they obstructed the Jeep No. TMS7180 transporting firewood to the Estate Store, prevented unloading of the firewood and threatened the Jeep Driver Shri Palani.

(iii) On the same day at about 11 a.m. these workmen abused and threatened the supervisor Shri Jose in the presence of other workmen.

(iv) These workers by their action on that day created an atmosphere of in security among the other workers and prevented the normal peaceful working of the estate.

These charges were found true in a domestic enquiry held by an Advocate appointed for that purpose. The workmen had participated in the enquiry throughout and they were given all opportunities to defend them. The enquiry was held in accordance with the principles of natural justice. The misconducts proved were serious meriting the dismissal awarded to them. So they are not entitled to any reliefs.

3. The Union in its rejoinder while refusing the contentions of the Management stated further as follows:—

These five permanent workers who had put in more than ten years of unblemished service were proceeded against by the Management simply to harass and victimise them for the sole reason that they had joined this Union and remained as its members ignoring the request of the Management to withdraw from the Union. Various Police cases were foisted on these workmen by the Management and finally these disciplinary proceedings were initiated with ulterior motive to get rid of them. In that effort a show of a domestic enquiry was conducted without giving the workmen their legitimate right to defend themselves properly. The Enquiry Officer was biased and he was only a tool in the hands of the Management. His findings are perverse and the workmen are really innocent. They are entitled to the relief of reinstatement with all benefits.

4. The question as to whether there was a proper domestic enquiry was tried as a preliminary issue and I found as per my preliminary order dated 9-2-1983 that all the criticisms raised against the enquiry except to the extent that the workmen's witnesses were not properly examined are baseless and therefore the evidence admitted on the side of the Management at the enquiry and the procedure otherwise adopted by the Enquiry Officer are proper and correct. But I allowed the Union to adduce fresh evidence in defence. The Management was also permitted to adduce further evidence if it is found necessary in the light of the evidence that is yet to be adduced on the other side. Copy of that order is appended to this award as an Annexure.

5. After the preliminary order the Union examined three witnesses and they are WW2 to WW4. The Management did not adduce any fresh evidence. One of the workmen and the Enquiry Officer were examined as WW1 and MW1 respectively in connection with the preliminary issue and the documents proved in evidence are Exts. M1 and M1(a), Ext. M1 being the file containing the relevant papers concerning the domestic enquiry.

6. The correctness of the findings of the Enquiry Officer has to be assessed in the light of the material on record which includes Ext.M1 the enquiry papers and the evidence admitted before this court before and after the preliminary order. The case of the Union is that nothing unusual had happened on the crucial date and the Management had unnecessarily initiated disciplinary proceedings to victimise the workmen on account of the fact that they joined the Union. There is absolutely nothing on record to substantiate the plea that the Management had a motive to victimise its workmen. It is not a case where it is impossible to adduce evidence in support of this allegation. The Union has a specific contention that the Management had foisted a number of criminal cases on these workmen as part of its attempt to get rid of them and that the disciplinary proceedings was the final act to achieve that end. But the Union did not care to produce possible records to show that criminal cases had been initiated by the Management against these workmen earlier as alleged. So we have to proceed further finding that there was absolutely no motive to victimise these workmen.

7. The Management alleges that these five workmen were involved in three independent acts of violence on 30-12-1980. Item Nos. 1 to 3 of the charge relate to those incidents in the sequence of events in which they are alleged to have occurred. Item No. 4 is only a general charge as the cumulative effect of the other three incidents put together. So we need to scrutinise the evidence in detail only regarding item Nos. 1 to 3. I shall proceed to consider them in the order in which they have been narrated earlier.

8. It is common case that 30-12-1980 was a working day and these five workmen were assigned forking work in the cardamom fields. The contention of the Union is that they were working throughout in the cardamom field on that day and they did not commit the mischiefs attributed to them. But

the case of the Management is that these five workmen failed to carry out the duties assigned to them, but proceeded to the coffee field where a good number of women workmen were engaged in picking coffee seeds, threatened and drove them away, thus preventing them from discharging their duties at about 9 a. m. The only witness who has given direct evidence on this aspect of the case is the third witness Shri Chandran who was supervising the workers in the coffee field. He had given evidence that all these five workers came to the coffee field at about 9 a. m., threatened him and the workers who were mostly women, prevented them from continuing their work and drove them away under the threat of physical hurt. Shri Chandran had filed Ext. A3 report regarding this incident before the Conductor who was examined as the first witness by the Management at the enquiry. The Conductor in turn had intimated the Manager examined as the 4th witness of the developments in his report Ext. A1 (exhibits as marked at the enquiry). These and some other documents were proved at the enquiry by the Manager. According to the Management the evidence available is sufficient to hold the workmen guilty of item No. 1 of the charge. On the other hand the Union vehemently argues that the uncorroborated evidence of MW3, an interested witness, is far from satisfactory to support the charge. WWs. 2 to 4 examined before this court claim that they were co-workers of the dismissed workmen in the cardamom field on the relevant day and that they all were working throughout in the cardamom field. This evidence is relied on to argue for the position that the charges are all raised without any reasonable basis.

9. The Management's attempt was to show that WW2 to WW4 are not its workmen and they who are close friends of the workmen involved in the case have been examined to set up a false plea. All these three witnesses have said that they have been cited as defence witnesses at the domestic enquiry and they were all present to give evidence there and they were not permitted to be examined. This was one of the main criticisms raised against the validity of the domestic enquiry. The allegation was that the workmen had produced ten witnesses on their side at the domestic enquiry and three out of them were alone examined by the Enquiry Officer MW1. I have discussed this aspect in detail in my preliminary order and I have concluded that this case was moulded on the basis of a typing error that had crept in the copy of the enquiry report furnished to the Union. There it was shown that ten witnesses for defence were called in and examined as DWs. 1 to 3. Actually the original read in a different manner. The real text is that the witnesses for the defence were called in and examined as DWs. 1 to 3. There was nothing to substantiate the contention that the workmen had filed a list of ten witnesses and produced them. That there was no possibility to produce ten witnesses to speak for the defence is also evident from the other facts revealed evidence. In What is spoken to by the defence witnesses is that 12 workers alone were employed in the cardamom field on that day and those 12 include the five dismissed workmen also. One of the dismissed workmen had given evidence as WW1 and he had given evidence that the witnesses produced at the domestic enquiry were those who were working

with him. When the five delinquent workmen are excluded there could not have been ten left out of the 12. This is the circumstance from which it could be said the defence story that ten witnesses were produced at the domestic enquiry is false. Probably to get over that difficulty the witnesses examined before this court on the side of the defence have said that there were only 8 defence witnesses present. Even this figure cannot work out to be correct. WW2 has said that himself and the other defence witnesses were present on a day on which the Management's witnesses were alone examined. But on that day three defence witnesses were in fact examined. All these facts indicate that the defence witnesses examined before this court, viz., WW2 to WW4, have really no respect for truth. It is evident that they were easily available to speak whatever the defence wanted. But even WW4 who has given some further details have given indication that there was some trouble in the estate on that particular day. What is spoken to by him is that he went to the coffee picking field at about 8 a. m. to have a cup of coffee with his wife who was working there and then one Muthayya drove away the female workers from the coffee field. What he states in this connection is as follows :—

> "$8\frac{1}{2}$ മണിക്ക് ബഹളം തുടങ്ങിയതാണ്. കാപ്പിപ്പഴം എടുക്കുന്ന പണിക്കാരെ കയററിവിട്ടു. അവർ തിരിച്ചു കയറിയോ എന്ന് ഓർമ്മയില്ല. കെ. കുഞ്ഞുമോൻ എ. കുഞ്ഞുമോൻ മുതലായവർ അവിടെ ബഹളം കൂട്ടാനുണ്ടായിരുന്നോ (Q) ഇല്ല ഭാര്യ വൈകിട്ടു പറഞ്ഞ് വിവരം അറിഞ്ഞു (A)."

If the testimony of this witness is accepted then it corroborates the version of the witness Shri Chandran at least to the extent that there was disturbance resulting in the stoppage of work in the coffee field. To the pointed question as to whether these workmen were also involved as trouble makers he has in a way said that he had hearsay information about it. Hearsay is no alergy in proceedings concerning industrial disputes as has been repeatedly stated by the Supreme Court in *State of Haryana* v. *Rattan Singh* (1982 I L.L.J. 46) and *Shri J. D. Jain* v. *Management of State Bank of India* (1982 I L.L.J. 54). Now the position is that there is the evidence of Shri Chandran corroborated by the report that he had submitted on the same day to his immediate superior and in a way strengthened by the evidence of WW4 that there was real trouble resulting in stoppage of work at the coffee picking field on 30-12-1980. Shri Chandran had given clear and convincing evidence that the five dismissed workmen were physically present on the scene to create the troubles. Shri Chandran is also an employee of the Management and no special reasons are brought out in evidence as to why he should perjure against the other workers. In proceedings in domestic enquiry as well as in proceedings before Tribunals or Labour Courts the standard of proof required need not necessarily be rigid as in the case of criminal trials or before civil courts. If the evidence tendered could be accepted then the fact that there is no sufficient corroboration will not be a circumstance to say that the evidence of a solitary witness is unacceptable. Here in this case we have corroboration of the evidence of Shri Chandran and Chandran's evidence is also acceptable since nothing

is brought out to disbelieve him. In these state of affairs it can safely be concluded and I conclude that these five workmen were really guilty of item No. 1 of the charge.

10. Now we come to item No. 2 concerning the obstructions said to have been caused to the jeep that was engaged in transporting firewood to the Estate Store. That incident is said to have taken place at 10 a. m. Regarding this allegation there is no direct evidence whatsoever on the side of the Management. It is the admitted case that the jeep in question was being engaged for transporting firewood to the Estate on that day and that one Palani was in charge as the driver. The said Palani was examined at the domestic enquiry as defence witness No. 1. He had admitted in his evidence that the jeep was obstructed at the estate and prevented from moving for about three hours. But he did not say as to who caused the obstruction. There is absolutely no other independent evidence to hold that these five workmen caused the obstruction. So it is impossible to say that these five workmen were responsible for causing the obstruction to the jeep. I find that they are not responsible for the misconduct attributed under item No. 2 of the charge.

11. The next in order concerns an incident alleged to have taken place at 11 a. m. The allegation is that these five workers at about 11 a. m. went together to the weeding field under the supervision of Shri Jose who was examind as the 2nd witness at the enquiry and they used obscene language against Jose, intimidated him and the other workers and prevented the further progress of the work. The only witness who said about this incident is Shri Jose. He has given clear and convincing evidence regarding that incident. He had also filed Ext. A2 report (A2 at the enquiry) regarding that incident giving the details to the superior the Conductor. Substance of that report is also incorporated in the report forwarded by the Conductor to the Manager. (Ext. A1 at the enquiry). Here also the criticism is that there is no independent corroboration of the evidence of Shri Jose. The testimony of defence witnesses 2 to 4 is relied on in this connection as well. I have already stated my reasons to discard the defence evidence. Then the position is that we have only the evidence of Shri Jose corroborated by his report Ext. A2 regarding this incident. It is clear from the evidence that there was trouble at the different spots in the estate on that day. The dismissed workmen are seen to have started the trouble at the coffee field an in all probability the version spoken to by Shri Jose must be correct in the facts and circumstances of this case. No reasons whatsoever are brought out to show that Shri Jose is not worthy of credit. He is also one of the workers of the estate and no particular reasons are stated as to why he should side with the Management. In these state of affairs his evidence can also be acted upon. When that is so it can be concluded that the workmen are guilty of item No. 3 of the charge also and I do so.

12. Item No. 4 of the charge does not state any specific incident. That is only a general charge as the cumulative effect of the independent items given earlier. So that item need not be treated as an independent charge.

13. Now the question remains as to what reliefs if any, the workmen are entitled in the matter of punishment as per Sec. 11-A of the Industrial Disputes Act. These five workmen were guilty of creating disturbance resulting in the stoppage of work of the estate. The workmen have no case as to why they were compelled to resort to such an action. It is not their case that that was part of any direct action in connection with any industrial dispute. That means that they have created disturbance and confusion including intimidation and use of filthy language against other workmen. There were no justifiable circumstances to resort to such actions. In these state of affairs the misconducts proved cannot be treated as silly to ignored. They are serious misconducts. However the Management has no case that the antecedents of these workmen were bad. Thus they are the first offenders. That being so the extreme penalty of dismissal is too harsh to be sustained. The Union claims that these workmen have put in ten years of unblemished service and the Management is not seen to have disputed the same. In these state of affairs discharges instead of dismissals will be adequate punishment. So I am converting the dismissals into discharges. I have no data to work out the benefits that are due when the workmen are treated as discharged. The Management is directed to work out the benefits as though the workmen were discharged on the date on which they were dismissed and pay them the same.

14. In the result an award is passed converting the dismissals of the workmen into discharges and directing the Management to pay them the benefits as indicated above. The workmen are not entitled to any other reliefs.

Ernakulam,
19-11-1983.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witness examined on the Management's side :

MW1 Shri Karunakaran.

Witnesses examined on the Union's side :

WW1 Shri K. Kunjumon.
WW2 ,, P. V. Mony.
WW3 ,, V. V. Kunjan.
WW4 ,, P. Unni.

Exhibits marked on the Management's side :

Ext. M1. The file containing the domestic enquiry proceedings.
,, M1 (a). A registered cover addressed to Shri K. Kunjumon.

ANNEXURE

In the Labour Court, Ernakulam

Wednesday, the 9th day of February, 1983

Present

SHRI N. SUKUMARAN, B.SC. B.L.

Presiding Officer

INDUSTRIAL DISPUTE No. 64 OF 1981

Between

Sri K. I. Philip, Manager. Fortland Plantations (Kottaparambil Estate), Moongalar P. O., Vandiperiyar.

And

The Workmen of the above estate represented by the General Secretary, Idukki District Estate Workers Union, Kumliy, Peermade Taluk.

Representations :

M/s. Joseph & Paulose, Lawyers, Kottayam-2. — For *Management*

Shri Zachariah Koshy, Advocate, Kottayam. — For *Union*

ORDER

Desciplinary proceedings were initiated against five workmen by the Management involved in the case and it ended in their dismissal. Correctness of the dismissals is challenged by the Union representing the workmen.

2. The case of the Union is that the Management's action is the result of an idea to victimise the workmen for having joined the Union. While pleading innocence of the workmen it is alleged by the Union that there are no reasons whatsoever to sustain the dismissals. According to it there was only a farce of a domestic enquiry and the workmen were not given a legitimate opportunity to establish their innocence. Reinstatement of the workman with all benefits is claimed by the Union.

3. The Management in its written statement contends that the workmen were really guilty of grave acts of misconduct deserving the extreme penalty of dismissal. According to it the misconducts were well established in a properly conducted domestic enquiry. The Enquiry Officer came to the reasonable conclusion on the available evidence that the workmen are guilty. Dismissal in the circumstances is not to be interfered with. The workmen are not entitled to any reliefs whatsoever.

4. It became necessary to consider the validity of the domestic enquiry as a preliminary issue in view of the rival contentions. The Enquiry Officer was examined as MW1. He has proved Ext. M1 file containing the relevant papers concerning the domestic enquiry. One of the workmen was examined as WW1 through whom Ext. M1 (a) was also marked. That is all the evidence available.

5. It is the admitted case that the workmen were served with charge memos giving the details of the misconducts attributed to them. The workmen had also notice of the domestic enquiry. They participated in it throughout.

6. One complaint is that of Mr. Eapen whom the workmen wanted to be their passive observer was not permitted to participate in the proceedings. But it is admitted by WW1 that Shri Eapen actually participated in the proceedings. So this complaint is without any reasonable basis.

7. Another complaint is that list of the witnesses whom the Management wanted to examine at the enquiry was not given in advance to the workmen. It is the admitted case that advance information regarding the details of the witnesses or the documents that were intended to be utilised at the enquiry were not furnished to the workmen before the enquiry started. But there is nothing to show that the workmen actually raised a plea before the Enquiry Officer that they cannot proceed with the enquiry before having such informations sufficiently in advance. It is noticed that the workmen had participated in the enquiry without raising any such protests. That being the case they cannot now legitimately complain that they were really handicapped for want of advance informations regarding the witnesses and documents which the Management intended to use against them at the enquiry.

8. Another complaint is that the workmen were not permitted to cross-examine the witnesses of the Management. But it is admitted by WW1 that himself and two other delinquent employees actually cross-examined the Management's witnesses. Then the argument is that the two accused workmen were not given permission to cross-examine the witnesses. But it is admitted by WW1 that himself and the other four co-employees proceeded against on almost identical charges were defending the case jointly. In these state of affairs the deposition of the Enquiry Officer who is an Advocate of long standing that the other two workmen opted not to cross-examine the witnesses in the face of the cross-examinations already made has to be accepted. So the complaint that the workmen were not given sufficient opportunities to cross-examine the Management's witnesses is also without any force.

9. Another complaint is that the workmen were not given sufficient opportunity to examine all their witnesses. It is admitted that Shri A. Kunjumon, one of the delinquent workmen, had filed a list of witnesses containing three names. Those three witnesses were examined on the side of the defence. What is claimed by WW1 is that he had filed another list containing the names of ten witnesses including the three names given by Shri K. Kunjumon and the remaining 7 persons who were actually produced, were not examined by the Enquiry Officer. But WW1 was not in a position to give the names of those persons whom he claims to have included in his list and produced for examination. MW1 has given evidence that there was no such list filed by WW1 containing the names of ten persons. The

learned counsel appearing on behalf of the Union referred to me the second para appearing in page 7 of the copy of the proceedings of the Enquiry Officer furnished to the defence which opens as follows :—

> "Then ten witnesses for the delinquent were called one by one and examined."

The recitals that follow say that those witnesses were examined as DWs. 1 to 3. The above recital is relied on by the learned counsel appearing on behalf of the Union to argue that actually ten witnesses were produced by the workmen and that only three were examined. But the original available in Ext. M1 reads thus :—

> "Then the witnesses for the delinquent were called one by one.............................."

The copy furnished to the defence through this court evidently is no a true copy as the word "the" is incorrectly typed as ten. That there was such a mistake is evident from the further recitals that the witnesses called were examined as DWs. 1 to 3. In these state of affairs the defence that 7 more witnesses were produced but not examined is built on the error committed by the person who typed the copy that was furnished to the Union.

10. One other criticism is that the Enquiry Officer from the very beginning was biased in favour of the Management. The workmen had applied for adjournment of the enquiry that was fixed to 27-1-1981. One of them stated that he had some personal inconvenience in appearing and the other four stated that they were ill. Medical certificates from the same Medical Practitioner were produced to support their claim that they were ill and they were unable to attend the enquiry. The Enquiry Officer in page 4 of his proceedings has remarked that he doubted the bona fides of the ground of illness stated by the four persons. Still he had granted the adjournment. On a subsequent occasion the Enquiry Officer adjourned the enquiry on the request of the Management without any hesitation even though the ground stated was the illness of the representative of the Management. There was also no medical certificate in support of the illness stated. This approach of the Enquiry Officer, according to the learned counsel appearing on behalf of the Union, is sufficient to infer bias. But it is important to notice that the Enquiry Officer had granted the request for adjournment on both occasions and nothing prejudicial to the interest of the workmen resulted. All that is seen to have been said by the Enquiry Officer is that he had his own doubts as to whether the claim that four workmen simultaneously fell ill is correct. It does not mean that he had any special affinity towards the Management or grudge against the workmen. No other circumstances whatsoever are made to show that the Enquiry Officer was in any way prejudiced.

11. Yet another complaint is that the Enquiry Officer himself acted as Prosecutor on behalf of the Management. The Enquiry Officer had admitted in the box that there was no presenting officer for the Management. He admitted further that he made chief examination of the witnesses of the Management. The defence witnesses are seen to have been cross-examined.

The Enquiry Officer states further that the cross-examination was effected by the Management's representative who was present on that day. Normally there is nothing wrong in the Enquiry Officer examining the Management's witnesses in chief as the Enquiry Officer can very well be expected to know from the details of the charge as to what the witnesses for the Management are intended to say. But that cannot be said of the defence witnesses. Normally the Enquiry Officer cannot know all possible defences which the delinquent workmen have in mind. So the Enquiry Officer should have permitted the concerned workmen to examine their witnesses in chief. The position then is that the workmen were not permitted to examine their witnesses at any stage. This is a serious flaw which vitiates the enquiry in so far as the workmen were not given an opportunity to elicit necessary facts by examining their witnesses themselves. This is a circumstance to say that the workmen were not given sufficient opportunity to establish their innocence. The enquiry to that extent is vitiated.

12. Now remains the question as to what course is to be adopted in the circumstances of this case. I have already found that there were no material irregularities except the one indicated above. The only defect is that the workmen were not given sufficient opportunity to adduce their evidence. That being the case it is unnecessary to declare the entire enquiry as bad. The evidence adduced on behalf of the Management can be accepted as having been properly admitted. So all that needs be done in the circumstances is to permit the workmen to adduce fresh evidence. The evidence adduced by the Management at the domestic enquiry can be looked into to see whether the misconduct attributed to the workmen is established. Now that the case is reopened for defence evidence, the Management will also be at liberty to adduce additional evidence if the circumstances warrant. With these observations the case is posted for the defence evidence.

13. In the result it is hereby ordered that the enquiry except to the limit mentioned above was proper. But the findings are vacated and the workmen will be given an opportunity to adduce evidence as a first step before this court. The Management as indicated above will also be at liberty to adduce fresh evidence if such a situation as indicated above arises. Ordered accordingly.

Dictated to the Confidential Assistant, transcribed and typed out by him, corrected by me and declared in open Court on this the 9th day of February, 1983.

N. SUKUMARAN,
Presiding Officer.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 21352/Leg. Pbn. 2/83/Law. *Dated, Trivandrum, 19th January,* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II-Section I, dated the 26th August, 1983, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 26th August, 1983.

By order of the Governor,
K. SREEDHARAN,
Law Secretary to Government.

THE ADMINISTRATORS-GENERAL (AMENDMENT) ACT, 1983

(Central Act 18 of 1983)

AN

ACT

further to amend the Administrators-General Act, 1963

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Administrators-General (Amendment) Act, 1983.

2. *Amendment of sections* 9, 10, 29, *and* 36.—In section 9, section 10, section 29 and section 36 of the Administrators—General Act, 1963 (45 of 1963) (hereinafter referred to as the principal Act), for the words "fifteen thousand", wherever they occur, the words "fifty thousand" shall be substituted.

3. *Amendment of section* 62.—In section 62 of the principal Act, after ıb-section (2), the following sub-section shall be inserted, namely:—

"(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.".

4. *Amendment of section* 63.—In section 63 of the principal Act, for the 'ords "in two successive sessions, and if, before the expiry of the session ı which it is so laid or the session immediately following", the words "in vo or more successive sessions, and if, before the expiry of the session nmediately following the session or the successive sessions aforesaid" shall e substituted.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 117/Leg. Pbn.2/84/Law. *Dated, Trivandrum, 19th January,* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II —Section 1, dated the 2nd September, 1983, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 2nd September, 1983.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

THE ARMS (AMENDMENT) ACT, 1983
(Central Act 25 of 1983)

AN

ACT

further to amend the Arms Act, 1959.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Arms (Amendment) Act, 1983.

(2) It shall be deemed to have come into force on the 22nd day of June, 1983.

2. *Amendment of section* 2.—In section 2 of the Arms Act 1959 (54 of 1959) (hereinafter referred to as the principal Act), in subsection (1) after clause (f), the following clause shall be inserted, namely:—

'(ff) "magistrate" means an Executive Magistrate under the Code of Criminal Procedure, 1973 (2 of 1974) ;'.

3. *Amendment of section* 3.—Section 3 of the principal Act shall be re-numbered as subsection (1) thereof and after subsection (1), as so re-numbered, the following subsections shall be inserted, namely:—

"(2) Notwithstanding anything contained in subsection (1), no person, other than a person referred to in subsection (3), shall acquire, have in his possession or carry, at any time, more than three firearms:

Provided that a person who has in his possession more firearms than three at the commencement of the Arms (Amendment) Act, 1983, may retain with him any three of such firearms and shall deposit, within ninety days from such commencement, the remaining firearms with the officer in charge of the nearest police station or, subject to the conditions prescribed for the purposes of subsection (1) of section 21, with a licensed dealer or, where such person is a member of the armed forces of the Union, in a unit armoury referred to in that subsection.

(3) Nothing contained in subsection (2) shall apply to any dealer in firearms or to any member of a rifle club or rifle association licensed or recognised by the Central Government using a point 22 bore rifle or an air rifle for target practice.

(4) The provisions of subsections (2) to (6) (both inclusive) of section 21 shall apply in relation to any deposit of firearms under the proviso to subsection (2) as they apply in relation to the deposit of any arm or ammunition under subsection (1) of that section.".

4. *Amendment of section* 5.—Section 5 of the principal Act shall be re-numbered as subsection (1) thereof and—

(a) in subsection (1) as so renumbered, the proviso shall be omitted;

(b) after subsection (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in subsection (1), a person may, without holding a licence in this behalf, sell or transfer any arms or ammunition which he lawfully possesses for his own private use to another person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having in his possession such arms or ammunition:

Provided that no firearm or ammunition in respect of which a licence is required under section 3 and no arms in respect of which a licence is required under section 4 shall be so sold or transferred by any person unless—

(a) he has informed in writing the district magistrate having jurisdiction or the officer in charge of the nearest police station of his intention to sell or transfer such firearms,

ammunition or other arms and the name and address of the person to whom he intends to sell or transfer such firearms, ammunition or other arms, and

(b) a period of not less than forty-five days has expired after the giving of such information.".

5. *Amendmen of section* 9.—In section 9 of the principal Act, in subsection (1), in clause (a),—

(a) in sub-clause (i), for the words "sixteen years", the words "twenty-one years" shall be substituted;

(b) in sub-clause (ii), for the words "a term of not less than six months", the words "any term" shall be substituted; and

(c) in sub-clause (iii), for the words and figures "Code of Criminal Procedure, 1898 (5 of 1898)", the words and figures "Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted.

6. *Amendment of section* 13.—In section 13 of the principal Act, for subsection (2), the following subsections shall be substituted, namely:—

"(2) On receipt of an application, the licensing authority shall call for the report of the officer in charge of the nearest police station on that application, and such officer shall send his report within the prescribed time.

(2A) The licensing authority, after such enquiry, if any, as it may consider necessary, and after considering the report received under subsection (2), shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same:

Provided that where the officer in charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for that report.".

7. *Insertion of new sections* 24*A and* 24*B*.—In Chapter IV of the principal Act, after section 24, the following sections shall be inserted, namely:—

'24A. *Prohibition as to possession of notified arms in disturbed areas etc.*—(1) Where the Central Government is satisfide that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area, it is necessary or expedient so to do, it may by notification in the Official Gazette—

(a) specify the limits of such area;

(b) direct that before the commencement of the period specified in the notification (which period shall be a period commencing from a date not earlier than the fourth day after the date of publication of the notification in the Official Gazette),

every person having in his possession in such area any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms), shall deposit the same before such commencement in accordance with the provisions of section 21 and for this purpose the possession by such person of any notified arms shall, notwithstanding anything contained in any other provision of this Act (except section 41) or in any other law for the time being in force, as from the date of publication of such notification in the Official Gazette be deemed to have ceased to be lawful ;

(c) declare that as from the commencement of, and until the expiry of, the period specified in the notification, it shall not be lawful for any person to have in his possession in such area any notified arms ;

(d) authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification,—

(i) to search at any time during the period specified in the notification any person in, or passing through, or any premises in, or any animal or vessel or vehicle or other conveyance of whatever nature in or passing through, or any receptacle or other container of whatever nature in, such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container ;

(ii) to seize at any time during the period specified in the notification any notified arms in the possession of any person in such area or discovered through a search under sub-clause (i), and detain the same during the period specified in the notification.

(2) The period specified in a notification issued under subsection (1) in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity as is referred to in subsection (1) or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches and seizures shall, so far as may be, apply to any search or seizure made under subsection (1).

(4) For the purposes of this section,—

(a) "arms" includes ammunition ;

(b) where the period specified in a notification, as originally issued under subsection (1), is extended under subsection (2), then, in relation to such notification, references in subsection (1) to "the period specified in the notification" shall be construed as references to the period as so extended.

24B. *Prohibition as to carrying of notified arms in or through public places in disturbed areas, etc.*—(1) Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do, it may, by notification in the Official Gazette,—

(a) specify the limits of such area ;

(b) direct that during the period specified in the notification (which period shall be a period commencing from a date not earlier than the second day after the date of publication of the notification in the Official Gazette), no person shall carry or otherwise have in his possession any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms) through or in any public place in such area ;

(c) authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification,—

(i) to search at any time during the period specified in the notification any person in, or passing through, or any premises in or forming part of, or any animal or vessel or vehicle or other conveyance of whatever nature in or passing through, or any receptacle or other container of whatever nature in, any public place in such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container;

(ii) to seize at any time during the period specified in the notification any notified arms being carried by or otherwise in the possession of any person, through or in a public place in such area or discovered through a search under sub-clause (i), and detain the same during the period specified in the notification.

(2) The period specified in a notification issued under subsection (1) in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity as is referred to in

subsection (1) or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizures shall, so far as may be, apply to any search or seizure made under subsection (1).

(4) For the purposes of this section,—

(a) "arms" includes ammunition;

(b) "public place" means any place intended for use by, or accessible to, the public or any section of the public; and

(c) where the period specified in a notification, as originally issued under subsection (1), is extended under subsection (2), then, in relation to such notification, references in subsection (1) to "the period specified in the notification" shall be construed as references to the period as so extended.'.

8. *Amendment of section* 25.—In section 25 of the principal Act,—

(a) for subsection (1), the following subsections shall be substituted, namely :—

"(1) Whoever—

(a) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or

(b) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or

(c) acquires, has in his possession or carries, or manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7; or

(d) brings into, or takes out of, India, any arms or ammunition of any class or description in contravention of section 11,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

(1A) Whoever has in contravention of a notification issued under section 24A in his possession or in contravention of a notification issued under section 24B carries or otherwise has in his possession, any arms or ammunition shall be punishable with imprisonment for a term which shall not be less than one year, but which may extend to five years and shall also be liable to fine.

(1B) Whoever—

(a) acquires, has in his possession or carries any firearm or ammunition in contravention of section 3; or

(b) acquires, has in his possession or carries in any place specified by notification under section 4 any arms of such class or description as has been specified in that notification in contravention of that section; or

(c) sells or transfers any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon as required by subsection (2) of section 8 or does any act in contravention of subsection (1) of that section; or

(d) being a person to whom sub-clause (ii) or sub-clause (iii) of clause (a) of subsection (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or

(e) sells or transfers, or converts, repairs, tests or proves any firearm or ammunition in contravention of clause (b) of subsection (1) of section 9; or

(f) brings into, or takes out of, India, any arms or ammunition in contravention of section 10; or

(g) transports any arms or ammunition in contravention of section 12; or

(h) fails to deposit arms or ammunition as required by subsection (2) of section 3 or subsection (1) of section 21; or

(i) being a manufacturer of, or dealer in, arms or ammunition, fails, on being required to do so by rules made under section 44, to maintain a record or account or to make therein all such entries as are required by such rules or intentionally makes a false entry therein or prevents or obstructs the inspection of such record or account or the making of copies of entries therefrom or prevents or obstructs the entry into any premises or other place where arms or ammunition are or is manufactured or kept or intentionally fails to exhibit or conceals such arms or ammunition or refuses to point out where the same are or is manufactured or kept,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and shall also be liable to fine:

Provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than six months.";

(b) for subsection (3), the following subsection shall be substituted, namely:—

"(3) Whoever sells or transfers any firearm, ammunition or other arms—

(i) without informing the district magistrate having jurisdiction or the officer in charge of the nearest police station, of the intended sale or transfer of that firearm, ammunition or other arms; or

(ii) before the expiration of the period of forty-five days from the date of giving such information to such district magistrate or the officer in charge of the police station,

in contravention of the provisions of clause (a) or clause (b) of the proviso to subsection (2) of section 5, shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.".

9. *Substitution of new section for section* 26.—For section 26 of the principal Act, the following section shall be substituted, namely :—

"26. *Secret contraventions.*—(1) Whoever does any act in contravention of any of the provisions of section 3, 4, 10 or 12 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and also with fine.

(2) Whoever does any act in contravention of any of the provisions of section 5, 6, 7 or 11 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and also with fine.

(3) Whoever on any search being made under section 22 conceals or attempts to conceal any arms or ammunition, shall be punishable with imprisonment for a term which may extend to ten years and also with fine.".

10. *Amendment of sections* 27 *and* 28.—In sections 27 and 28 of the principal Act, for the words ",or with fine, or with both", the words "and with fine" shall be substituted.

11. *Amendment of section* 29.—In section 29 of the principal Act, for the words "six months, or with fine of an amount which may extend to five hundred rupees, or with both", the words "three years, or with fine, or with both" shall be substituted.

12. *Amendment of section* 30.—In section 30 of the principal Act, for the words "three months", the words "six months" and for the words "five hundred", the words "two thousand" shall be substituted.

13. *Amendment of section* 34.—In section 34 of the principal Act,—

(a) for the words and "figures Sea Customs Act, 1878 (8 of 1878)", the words and figures "Customs Act, 1962 (52 of 1962)" shall be substituted;

(b) for the word and figures "section 16", the word and figures "section 58" shall be substituted.

14. *Amendment of sections 37 and 38.*—In sections 37 and 38 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898 (5 of 1898)", the words and figures "Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted.

15. *Amendment of section 41.*—In section 41 of the principal Act, in clause (a), for the words "exempt any person or class of persons", the words and brackets "exempt any person or class of persons (either generally or in relation to such description of arms and ammunition as may be specified in the notification)" shall be substituted.

16. *Amendment of section 44.*—In section 44 of the principal Act,—

(a) in subsection (2), in clause (a), after the words "licensing authorities", the words "including the areas and the categories of arms and ammunition for which they may grant licences" shall be inserted;

(b) in subsection (3), for the words "two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

17. *Repeal and saving.*—(1) The Arms (Amendment) Ordinance, 1983 (4 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 116/Leg. Pbn. 2/83/Law. *Dated, Trivandrum, 9th January* 1983.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II, Section 1, dated the 22nd August 1983 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 20th August, 1983.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

THE ELECTRICITY (SUPPLY) AMENDMENT ACT, 1983

(Central Act 16 of 1983)

An

Act

further to amend the Electricity (Supply) Act, 1948.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement*.—(1) This Act may be called the Electricity (Supply) Amendment Act, 1983.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section* 59.—In section 59 of the Electricity (Supply) Act, 1948 (54 of 1948) (hereinafter referred to as the principal Act),—

(a) in sub-section (1), for the words "leave such surplus, as the State Government may, from time to time, specify.", the following shall be substituted, namely:—

"leave such surplus as is not less than three per cent., or such higher percentage, as the State Government may, by notification in the Official Gazette, specify in this behalf, of the value of the fixed assets of the Board in service at the beginning of such year.

Explanation.—For the purposes of this sub-section, "value of the fixed assets of the Board in service at the beginning of the year" means the original cost of such fixed assets as reduced by the aggregate of the cumulative depreciation in respect of such assets calculated in accordance with the provision of this Act and consumers' contribution for service lines.';

(b) in sub-section (2), in the opening portion, for the words "the surplus", the words "any higher percentage" shall be substituted.

3. *Amendment of section* 67.—For section 67 of the principal Act, the following section shall be substituted, namely:—

"67. *Priority of liabilities of the Board.*—The Board shall distribute the surplus referred to in sub-section (1) of section 59 to the extent available in a particular year in the following order, namely:—

(i) repayment of principal of any loan raised (including redemption of debentures or bonds issued) under section 65 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;

(ii) repayment of principal of any loan advanced to the Board by the State Government under section 64 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;

(iii) payment for purposes specified in sub-section (2) of section 59 in such manner as the Board may decide.".

4. *Insertion of new section* 67*A*.—After section 67 of the principal Act, the following section shall be inserted, namely:—

"67.*A*. *Interest on loans advanced by State Government to be paid only after other expenses.*—Any interest which is payable on loans advanced under section 64 or deemed to have been advanced under section 60 to the Board by the State Government and which is charged to revenues in any year may be paid only out of the balance of the revenues, if any, of that year which is left after meeting all the other expenses referred to in sub-section (1) of section 59 and so much of such interest as is not paid in any year by reason of the provisions of this section shall be deemed to be deferred liability and shall be discharged in accordance with the provisions of this section in the subsequent year or years, as the case may be.".

5. *Amendment of section* 68.—In section 68 of the principal Act,—

(a) in sub-section (1), the words "Subject to the provisions of section 67," shall be omitted;

(b) sub-section (2) shall be omitted.

6. *Amendment of section* 69.—In section 69 of the principal Act,—

(a) in sub-section (1), for the words "as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India", the words "as the Central Government may, by notification in the Official Gazette, prescribed by rules made in this behalf in consultation with the Comptroller and Auditor-General of India and the State Goverments" shall be substituted;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6). The provisions of sub-section (3) of section 4B shall apply in relation to any rules made by the Central Government under sub section (1) as they apply in relation to rules made by that Government under Chapter II.".

GOVERNMENT OF KERALA

Local Administration & Social Welfare (G) Department

NOTIFICATION

G. O. (MS) 193/83/LA&SWD. *Dated, Trivandrum, 5th November* 1983.

S. R. O. No. 207/84.—Under subsection (5) of section 12 of the Town Planning Act, 1108 (IV of 1108), the Government of Kerala hereby notify that under subsection (3) of the said section, the Government have sanctioned the Detailed Town Planning Scheme for Office Complex, Chalakudy. The Government Order sanctioning the scheme is hereby published as required under subsection (5) of the said section. The scheme will be open to inspection of the public at the Municipal Office, Chalakudy during office hours for a period of one month from the date of publication of this notification in the Gazette.

By order of the Governor,
M. S. K. RAMASWAMY,
Commissioner and Secretary to Government.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport.)

The Chief Town Planner has forwarded a draft Detailed Town Planning Scheme for Office Complex, Chalakudy for sanction under section 12 of the Town Planning Act, 1108. Government have examined the scheme in detail and are pleased to sanction the scheme as laid down under sub-section (3) of section 12 of the Town Planning Act 1108. This notification is intended to achieve the above purpose.)

GOVERNMENT OF KERALA

Abstract

DETAILED TOWN PLANNING SCHEME FOR OFFICE COMPLEX, CHALAKUDY—SANCTION ACCORDED

LOCAL ADMINISTRATION AND SOCIAL WELFARE (G) DEPARTMENT

G. O. (MS) 193/83/LA&SWD. *Dated, Trivandrum, 5th November* 1983.

Read:—1. Letter No. PW-iii/73 dated 23-5-1980 from the Municipal Commissioner, Chalakudy.

2. Letter No. CI-1244 (730)/81 dated 4-10-1982 from the Chief Town Planner.

ORDER

The Municipal Commissioner, Chalakudy has forwarded along with his letter read as first paper above, a Detailed Town Planning Scheme for Office Complex, Chalakudy as laid down under subsection (2) of section 12 of the Town Planning Act, 1108 (IV of 1108) and rule 44 of the Town Planning Rules, 1113 issued under the said Act for Government sanction. The Chief Town Planner has recommended the scheme for sanction.

Government have examined the scheme in detail and hereby sanction the Town Planning Scheme for Office Complex, Chalakudy under subsection (3) of section 12 of the Town Planning Act, 1108 (Act IV of 1108). The details of land proposed to be acquired are appended to this order.

In order to have successful implementation of the scheme, the Government direct the Public Works Engineering Department, Public Health Engineering Department, Kerala State Electricity Board and Housing Board should associate themselves with the Chalakudy Municipality in implementing the scheme.

A copy of the scheme book as proposed by the Chief Town Planner and approved by Government is herewith forwarded to the Municipal Commissioner, Chalakudy.

By order of the Governor,
M. S. K. Ramaswamy,
Commissioner and Secretary to Government.

FORM

Land proposed

Detailed Town Planning Scheme

Purpose for which to be acquired	Name of Village	Sy. Nos. effected		Descri-ption of land	Name of owner
		Sy. No.	Sub. Dn. No.		
(1)	(2)	(3)	(4)	(5)	(6)
Road AA (N.H.)	Chalakudy	720	2	Dry	
	,,	718	..	,,	
	,,	719	..	,,	
	,,	722	..	,,	
	,,	294	..	,,	
	,,	293	..	,,	
	,,	295	1	,,	
	,,		2	,,	
	,,	438	1	,,	
	,,		2	,,	
	,,	441	6	,,	
	,,	439	1	,,	
	,,	448	5	,,	
	,,		8	,,	
	,,		4	,,	
	,,	437	4	,,	
Road C1C1	Chalakudy	715	..	,,	
Road D2D2	,,	280	..	,,	
		284	2	,,	
			7	,,	
			3	,	
			14	,,	
			5	,,	
			4	Wet	

No. 9

to be acquired

for Chalakudy Office Complex

Boundaries of land				Extent to be taken		Remarks
East	South	West	North	Hects.	Ares	
(7)	(8)	(9)	(10)	(11)	(12)	(13)
718	719	720/2	263	0	3.84	Part
718	722	719/720	263	0	9.28	,,
718	722	720/2	718, 720/2	0	1.10	,,
722	294	722	718, 719	0	8.10	,,
294/293/2	295/1	194	722	0	70.40	,,
293/2	295/2	295/1, 2	294	0	5.32	,,
293	295/2	295/2	295/1	0	3.00	,,
295/2	436	295/2	295/1	0	14.40	,,
438/1	441/6 438/2	438/1	436	0	40.50	,,
441/6, 439/1	437/4, 5	438/2	438/1	0	11.50	,,
441/6	439/1	438/2	438/2	0	6.70	,,
439/1	448/5	439/1	441/6 438/2	0	22.50	,,
448/5, 6	448/10	448/5	439/1	0	25.00	,,
448/4	448/11	448/9	448/8	0	0.50	,,
448/4	448/11	448/8		0	1.00	,,
437/5	437/4	437/4	438/2	0	1.00	,,
				2	24.14	
207	715	715	715	0	10.90	,,
280, 284/2, 7	284/3	280	715	0	6.00	,,
284/2	284/7	280	280	0	0.38	,,
284/7	284/3	280	284/2	0	0.91	,,
284/3	284/14	284/3	284/7	0	5.40	,,
284/14	284/5	284/14	284/3	0	4.00	,,
284/5	284/6	284/4	284/14	0	1 50	,,
284/6, 285/1	283	284/4	284/4	0	2.70	,,

(1)	(2)	(3)	(4)	(5)	(6)
Road D2D2	Chalakudy	284	6	Dry	
		285	1	,,	
			6	,,	
			2	,,	
			18	,,	
Road D3D3	,,	285	18	,,	
		283		,,	
		288	3	,,	
			6	,,	
		285	14	,,	
Road E2E2	,,	200	4	,,	
	,,		5	,,	
	,,		11	,,	
			7	,,	
		201	1	,,	
			13	,,	
			6	,,	
			7	,,	
			3	,,	
			10	,,	
			8	,,	
		203	2	,,	
			5	,,	
			3	,,	
			6	,,	
			4	,,	
Public & Semi Public	Chalakudy	292	1	,,	
	,,		2	,,	
	,,		3	,,	
	,,	295	1	,,	
	,,		2	,,	

(7)	(8)	(9)	(10)	(11)	(12)	(13)
284/6	385/1	284/4	284/5	0	1.75	Part
285/1	285/6	284/4, 283	284/6	0	2.63	,,
285/6	285/2	283	285/1	0	2.66	,,
285/2	285/18	283	285/6	0	3.00	,,
285/18	285/18	283	285/18	0	1.00	,,
				0	31.93	
284/14	285/9, 8, 4, 5	283 288/3	285/18	0	9.10	,,
285/18	283/3	288/6	283	0	4.20	,,
285/18	288/3	283	283	0	1.43	,,
283	288/6	288/6	283	0	0.40	,,
207	285/15	285/18	285/14	0	0.50	,,
				0	15.63	
199	200/5	200/4	199	0	2.60	
199	200/11	200/5	200/4	0	1.60	,,
199	200/7	200/11	200/5	0	1.50	,,
199	201/1	200/7	200/11	0	4.00	,,
202	201/13	201/1	200/7	0	2.00	,,
202	201/6	201/13	201/1	0	0.70	,,
202	201/7	201/6	201/13	0	2.70	,,
202	201/3	201/7	201/6	0	2.30	,,
202	201/10	201/3	201/7	0	1.75	,,
202	201/8	201/10	201/3	0	0.30	,,
202	202/8	201/8	201/10	0	0.70	,,
202	203/5	203/2	202	0	3.25	,,
203/5	203/5	203/5	203/2	0	0.40	,,
203/3	203/6	203/3	202	0	0.50	,,
203/6	203/4	203 6	203/3	0	0.13	,,
203/4	Scheme boundry	203/5	203/5.	0	4.80	,,
				0	29.23	
292/2, 3	292/1	291/1	201/1	0	3.00	,,
292 2	292/3	292/1	291/3, 4, 5	0	19.50	,,
292/3	293/1	292/1	292/2	0	18.75	,,
295/1	295/2	196/1	294	0	3.36	,,
295/2	436	295/2	295/2	0	30.96	,,
				0	75.57	

(1)	(2)	(3)	(4)	(5)	(6)
Industrial	Chalakudy	280		Wet	
	,,	284	3	Dry	
	,,		14	,,	
	,,		4	Wet	
		281	1	,,	
	,,		2	,,	
	,,	282	4	Wet & Dry	
	,,	288	2	,,	
	,,	283	..	,,	
	,,	290	..	Dry	
	,,	715			
Commercial Use	,,	284	7	Dry	
			3	,,	
			14		
		209	1	,,	
			5		
			6		
			7	,,	
		210	2	,,	
Park		442	5	Wet	
Highway		448	5	Dry	
Resort		439	1	,,	
Centre		441	1	,,	
			12	,,	
			6	,,	
			2		
			7		
			9		
			10		
		438	1		

(7)	(8)	(9)	(10)	(11)	(12)	(13)
280	281/2	281/1	280	0	17.10	Part
284/3	284/14	281/2	280	0	4.60	,,
284/14	284/4	284/4	284/3	0	2.50	,,
284/14, 4	283/4	281/2	284/3	0	7.28	,,
281/2	282/4	281/1, 290	280	0	41.75	,,
284/4	283	282/4	280, 281/1	0	26.50	,,
281/2	288	282/4	281/1, 2	0	25.80	,,
283	288/2, 6	288/2	282/4	0	12.15	,,
285,2, 6, 1	283	288/2	282/4, 281/2	0	38.40	,,
281/1	281/1	290	715	0	3.00	,,
280	290	715	715	0	1.26	,,
				0	80.34	
284/7	284/3	284/7	284/2	0	5.25	,,
284/3	284/14	284/3	284/7	0	13.75	,,
284/14	284/14	284/14	284/3	0	6.00	,,
209/1	209/5	209/6, 207	210/2	0	25.80	,,
209/3	209/2	209/7, 6	209/1	0	17.00	Full
209, 1, 5	209/7	207	209/1	0	0.20	,,
209/5	209/8	207	209/6	0	0.20	,,
				0	68.20	
210/2	209/1	708	708	0	7.40	Part
				0	75.60	
442/5, 1	443/1	442/6, 7	436	0	46.50	,,
448/9	448/5	448/5	439/1	0	2.16	,,
439/14	448/5	439/1	439/13	0	8.60	,,
441/1	439/13	441/11	441/12	0	17.00	,,
441/1	441/13	441/11	441/2	0	3.75	,,
431/11	441/6	441/6	441/11	0	7.35	,,
441/2	441/12	441/7	441/2	0	0.80	,,
441/7, 2	441/11	441/9	441/7	0	5.90	,,
441/7	441/11	438/5	441/7	0	1.00	,,
44 /5	441/5	438/1	436	0	2.20	,,
441/10	441/6	438/1	436	0	12.80	,,
				0	61.56	

(1)	(2)	(3)	(4)	(5)	(6)
Residential Use	Chalakudy	278	3	Wet	
		279	3	Wet & Dry	
			4	Wet	
		716	2	Dry	
			1	Wet	
		717	1	Dry	
			2	Wet	
		715	..	Dry	
		439	2	,,	
		448	4	,,	
		200	4	,,	
			5		
			11		
			7		

(7)	(8)	(9)	(10)	(11)	(12)	(13)
279/3	716/2	277/1	278/2	0	19.84	Part
279/4	716/2	278/3	279/2	0	21.44	,,
714	715	279/3	279/2	0	10.20	,,
279/4	715	264	278/3, 279/3	0	70.40	,,
716/2	717/2	264	278/3	0	1.30	,,
716/2	715	717/2	716/1	0	2.88	,,
717/1	715	717/3	264	0	1.60	,,
708	715	715	716/2	0	19.40	,,
439/2	448/4	439/2	439/11	0	7.92	,,
448/4	448/11	448/4	439/2	0	13.76	,,
200/4	200/5	200/4	200/3	0	32.46	,,
200/3	200/11	200/5	200/4	0	18.90	,,
200/11	200/7	200/11	200/5	0	9.90	,,
200/7	201/1	200/7	300/11	0	38.44	,,
				2	62.44	

GOVERNMENT OF KERALA

Home (C) Department

NOTIFICATION

G.O. Ms. No. 10/84/Home. *Dated, Trivandrum, 10th February* 1984.

S.R.O. No. 208/84.—In exercise of the powers conferred by Article 234 of the Constitution of India and in modification of the notification issued under G. O. Ms. 124/83/Home dated 17-9-1983 and published as S.R.O. No. 1399/83 in the Kerala Gazette No. 41 dated 18th October, 1983, the Governor of Kerala is pleased to appoint Smt. S. Kamalabai, Kollamtazhikathu House, Kottackakom Ward, Quilon as Munsiff in the Kerala Civil Judicial Service in the place of Smt. A. Lekshmikutty Kayikkara, Ambalthara, Poonthura P.O., Trivandrum-26.

By order of the Governor,

N. Kaleeswaran,

Commissioner and Secretary to Government.

Explanatory Note

(This does not form part of the Notification but is intended to indicate its general purport.)

Smt. A. Lekshmikutty, Kayikkara House, Ambalathara, Poonthura, Trivandrum, one of the candidates appointed as the Munsiffs in the Kerala Civil Judicial Service has relinquished the appointment. It has become necessary to appoint another candidate in the place of Smt. Lekshmikutty. The notification is intended to achieve the above object.

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GOVERNMENT OF KERALA

Home (C) Department

NOTIFICATION

G. O. (Ms) No. 14/84/Home. *Dated, Trivandrum, 20th February* 1984.

S. R. O. No. 209/84.—In exercise of the powers conferred by Article 233 (1) of the Constitution of India, the Governor of Kerala is pleased to appoint the following persons as District and Sessions Judges in the Kerala State Higher Judicial Service, without prejudice to the claims of candidates to be recruited from the bar to satisfy the provision in Rule 2 (b) of the Kerala State Higher Judicial Service Rules.

1. Sri S. Krishnan Unni, Principal Sub Judge, Palghat.
2. Sri K. P. Parameswara Menon, Principal, Sub Judge, Trivandrum.
3. Sri P. Sreedharan, Principal, Sub Judge, Parur.
4. Smt. D. Sreedevi, Sub Judge on OD as Deputy Secretary (Suits) Law Department, Government Secretariat, Trivandrum.

By order of the Governor,

N. KALEESWARAN,

Commissioner and
Secretary to Government.

Explanatory Note

(This does not form part of the Notification but is intended to achieve its general purport.)

The High Court has recommended the appointment of S/Sri S. Krishnan Unni, Sri K.P. Parameswara Menon, Sri P. Sreedharan and Smt.D. Sreedevi, subjudges as District and Sessions Judges in the Kerala State Higher Judicial Service. The Governor of Kerala has accepted the recommendation of the High Court. Hence this notification.

GOVERNMENT OF KERALA

Agriculture (Co-operation C) Department

NOTIFICATION

No. 76863/C3/83/AD. *Dated, Trivandrum, 18th January* 1984.

S. R. O. No. 210/84.—Whereas, under subsection (1) of section 59 of the Kerala Co-operative Societies Act, 1969 (21 of 1969), a society shall not make a loan to any person or a society other than a member;

And whereas the Quilon District Co-operative Bank has decided to make a loan of Rs. 30,000 for a period of 60 months to Sri M. Koshy Panicker, Udayamangalam, Sasthamcotta, for the purpose of constructing an additional hall to the branch offices of the said Bank Sasthamcotta adjacent to the existing building, on the terms and conditions agreed upon for the purpose.

And whereas Sri M. Koshy Panicker is not a member of the Bank ;

And whereas the Registrar of Co-operative Societies has requested Government to exempt the said bank from the provisions of subsection (1) of Section 59 of the said Act;

And whereas Government are satisfied that it is necessary, in the public interest, to exempt the said bank from the provisions of subsection (1) of section 59 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) for the purpose of enabling the said bank to make a loan of Rs. 30,000 to Sri M. Koshy Panicker;

Now, therefore, in exercise of the powers conferred by section 101 of the Kerala Co-operative Societies Act, 1969 (21 of 1969), the Government of Kerala hereby exempt the Quilon District Co-operative Bank from the provisions of subsection (1) of the section 59 of the said Act for the limited purpose of enabling the said bank to make a loan of Rs. 30,000 to Sri M. Koshy Panicker on satisfying the terms and conditions agreed upon for the purpose of constructing an additional hall adjacent to the existing building of the branch office of the Quilon District Co-operative Bank at Sasthamcotta for accommodating the said Branch Office at Sasthamcotta.

By order of the Governor,

M. R. VASUDEVAN PILLAI,

Additional Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport).

In order to construct an additional hall to the Branch Office at Sasthamcotta, the bank has resolved to advance a sum of Rs. 30,000 to Sri M. Koshy Panicker at an interest of 16% for a period of 60 months and has sought exemption from Government from the provisions of section 59 of the Kerala Co-operative Societies Act, 1969. This notification is for achieving the above object.

Kerala Gazette No. 10 dated 6th March 1984.
PART I **Section iv**



GOVERNMENT OF KERALA

Abstract

FUNDS—GENERAL PROVIDENT FUND (KERALA) RULES—SANCTIONING OF TEMPORARY/NON-REFUNDABLE WITHDRAWALS FROM GENERAL PROVIDENT FUND (KERALA) TO HIGH COURT JUDGES—DELEGATION OF POWERS TO THE HONOURABLE CHIEF JUSTICE OF KERALA—FURTHER AMENDMENT TO THE GENERAL PROVIDENT FUND (KERALA) RULES—ISSUED

FINANCE (P. F.) DEPARTMENT

G. O. (P) No. 16/84/Fin. Dated, Trivandrum, 7th January, 1984.

Read:—1. U.O. Note No. 54001/Spl. Cl/82/GAD dated 18-1-1983 from the General Administration (Special-C) Department.

2. G. O. (P) No. 1071/79/Fin. dated 11-12-1979.

3. Letter No. FMI/1-5/83-84/37/60 dated 3-9-1983 from the Accountant General, Kerala, Trivandrum.

NOTIFICATION

S. R. O. No. 211/84.—In exercise of the powers conferred by sub section (1) of section (2) of the Kerala Public Services Act, 1968 (19 of 1968), read with section 3 thereof, and of all other powers enabling in this behalf the Government of Kerala hereby make the following amendments to the General Provident Fund (Kerala) Rules, namely:—

AMENDMENT

C.S.No. 1/84/*Fin. dated* 7-1-1984.

1. *Short title and Commencement.*—(a) These rules may be called the General Provident Fund (Kerala) Amendment Rules, 1984.

(b) They shall come into force at once.

2. *Amendment of the Rules.*—In the General Provident Fund (Kerala) Rules, (i) in sub-clause (vi) of clause (a) of sub-rule (1) of rule 16, after Note 2, the following Note shall be inserted, namely :—

"*Note* 3:—In the case of Judges of the High Court of Kerala elevated from service, the authority competent to sanction temporary advances shall be the Chief Justice of Kerala" ;

(2) in clause (1) of sub-rule (B) of rule 28, after the proviso iii (c) the following Note shall be inserted, namely:—

"*Note*:—In the case of the Judges of the High Court of Kerala elevated from service, the authority competent to sanction non-refundable withdrawals shall be the Chief Justice of Kerala".

By order of the Governor,

P. SAHADEVAN,

Additional Secretary to Government.

Explanatory Note

(This is not a part of the amendment, but it is intended to indicate its general purport).

According to the amendment issued vide G. O. (P) 1071/79/Fin. dated 11-12-1979 to rule 28 B (1) of General Provident Fund (Kerala) Rules, non-refundable withdrawal in excess of the limit contemplated therein upto 3/4th of the balance standing at the credit of the subscribers in their General Provident Fund Accounts can be sactioned by the Heads of Departments. This does not enable the Chief Justice, High Court of Kerala to sanction temporary/Non-refundable withdrawals from the General Provident Fund Accounts to High Court Judges elevated from services, since the expression "the High Court" included in the list of Heads of Departments declared by the Government in Appendix II of K.S.Rs. Part I cannot be considered as equivalent to the Chief Justice of High Court. This necessitated the issue of this amendment to the General Provident Fund (Kerala) Rules.

To

The Accountant General, Kerala, Trivandrum.
All Heads of Departments and Offices.
All Officers of the Government Secretariat.
The Private Secretary to Chief Minister and other Ministers.
The Registrar, University of Kerala/Cochin/Calicut (with C. L.)
The Registrar, High Court of Kerala (with C. L.)
The Registrar, Agricultural University, Mannuthy, Trichur (with C. L.)
The Secretary, Kerala Public Service Commision, Trivandrum (with C. L.)
The Secretary to the Governor, Raj Bhavan, Trivandrum.
The Confidential Assistant to the Chief Secretary.